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# A HISTORY

OF THE

# LATE PROVINCE

OF

# LOWER CANADA

PARLIAMENTARY AND POLITICAL

FROM THE COMMENCEMENT TO THE CLOSE OF ITS EXISTENCE AS A SEPARATE PROVINCE.

By ROBERT CHRISTIE.

IN SIX VOLUMES.

VOL. III.

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# NOTICE.

It was intended at the commencement of this work that it should be comprised within three volumes; but some very interesting papers, not hitherto published, relating to public matters in Lower Canada, having recently, that is to say, since the publication of the second volume, been placed in the author's hands with the liberal permission to publish such of them as he may deem advisable, he has found it necessary to alter his purpose and extend the work to four volumes. This volume, therefore, only traces events in Lower Canada down to the expiration of the provincial parliament in 1834. The fourth will begin with the fifteenth and last parliament of that province, detailing its proceedings and the principal events which led to the suspension of the constitution in 1838, by act of the imperial parliament, and public matters thence to the act of

1840, re-uniting the two Canadas into one province as at present constituted, together with a copious Appendix, containing such of the documents above alluded to as may consistently be published, which being for the most part from public characters more or less distinguished, who at various periods, in bye-gone times, have participated in the administration of the government of Lower Canada, or been concerned in its affairs, will, the author believes, be of the deepest interest to all those who are desirous of rightly understanding its history, and in particular to such as would know something of what has been passing behind the curtain, as well as upon the visible parts of the theatre.

R. C.

Quebec, 6th Sept., 1850.

## ACKNOWLEDGMENT.

A question has been raised, since the issue of the second volume of this work, in some of the journals of the province, the *Montreal Courier* in particular, whether the expedition to Plattsburgh, in 1814, by the forces under Sir George Prevost, were pursuant to orders from England, or undertaken by that officer on his own responsibility; and the author having been cited to solve it, it is due, he feels, in courtesy to the intelligent editor of the *Courier*, as well as to the public, to respond to the invitation as far as his knowledge of the subject extends. In answer, then, he has to observe, that Sir George Prevost's policy, from first to last, as governor in chief and commander of the forces in Canada, it is well understood was defensive; and that such also were his instructions from home at the outset of the war declared in 1812, by the United States against Great Britain, there cannot be a doubt. The british government was neither inclined, nor in fact had the necessary means in Canada at the outbreak of hostilities against us, to carry on offensive warfare against our neighbours. Recent events had soured the temper of the great body of the french canadian population, and the american government built upon the circumstance, expecting that far from opposing they would hail the invad-

ers of the Canadas as their deliverers. The commander of the forces understood the difficulties and heavy responsibility of his position, and must have felt that, without dreaming of active operations against the enemy, he would have on hand ample work in preparing for the storm. He consequently resolved upon the course best suited to his purpose, the defence of the Canadas, and by a conciliating and just policy, perfectly succeeded in combining in a spirit of loyalty and enthusiasm (which six months previously it would have been thought impossible ever to realize,) the masses to a degree never to be forgotten by the british government, and that not only surprized and animated the whole british empire,(then engaged in the most eventful struggle that Europe had witnessed,) but that actually proved, as shewn by subsequent events, adequate to any emergency purely of defence, and to which, to preserve their confidence, wisely he limited their action throughout the war.

General Brock's brilliant success at Detroit, and his capture of the american forces under general Hull, with the simultaneous fall of Michillimackinac, by which the indian tribes (auxiliaries whose aid it is sincerely to be hoped will never, under any contingency, be invoked again,) of the West, South West and North West, were brought into action against the enemy's arms, inspired the country with a confidence in its own energy and resources that carried it success-

fully through the contest waged by the United States in the expectation of an easy conquest.

The success of the british arms in Spain and consecutively in France, left at the disposal of the government of England a large force, which being transferred to Canada, in 1814, it was believed might now be advantageously employed in offensive operations, and here commenced the evil. The defensive was a successful policy; the error lay in the departure from it. In a pamphlet, published in London, 1823, recently put into the author's hands, intituled,— "Some account of the public life of lieut.-general Sir George Prevost, bart., particularly of his services in the Canadas," there is the following extract from a despatch of the 3d June, 1814, from the colonial minister, earl Bathurst, to Sir George Prevost, explaining to him the objects contemplated by the reinforcements which were then on their way from Bourdeaux to Canada:—

"The object of your operations will be, first,—To give immediate protection, secondly, to obtain, if possible, ultimate security, to his Majesty's possessions in America. The entire destruction of Sackett's Harbour, and the naval establishment on Lake Erie and Lake Champlain, come under the first description."—Should there be any advanced position on that part of our frontier which extends towards Lake Champlain, the occupation of which would materially tend to the security of the province, you will, if you deem it expedient, expel the enemy from it, and occupy it by detachments of the troops under your command,

*always, however, taking care not to expose his Majesty's troops to being cut off by too extended a line of advance.*" —" At the same time, it is by no means the intention of his Majesty's government to encourage such forward movements into the interior of the american territory, *as might commit the safety of the force placed under your command.*"

It would, indeed, seem that something like a discretion was left him, by the words " if you deem it expedient," &c.;—But if the reader refer to the despatch from Sir George Prevost to earl Bathurst, (Vol. II., page 395,) he will see what at least was expected of that officer, and cannot fail to be convinced that the expedition to Plattsburgh was not a spontaneous enterprise, nor of the planning of the commander of the forces in the Canadas, but in consequence of the orders received to adopt " offensive measures against the enemy." To the above, it may, without impropriety be added, that captain N. Freer, who, during the late war with the United States, filled the confidential and responsible office of military secretary to the commander of the forces in Canada, (and who ever since, continuously to the present day, has been a citizen of Quebec,) as well as the late honble. A. W. Cochran, who during the same period, served as an assistant secretary under Sir George Prevost, and with captain Freer participated largely in his confidence, have both, frequently, to the author's knowledge, been heard to attribute the untoward expedi-

tion to Plattsburgh, to the orders which his excellency had received from home, and of which independently of the testimony of those gentlemen, there is in the letters before the public, above alluded to, ample evidence.

Mr. Cochran, the author regrets to observe, is beyond the reach of human interpellation or appeal, having been swept off by the cholera, which, in 1849, desolated Quebec for the third time since 1832 inclusively,* but capt. Freer lives and can set the author right if he be in error, or have failed in doing justice to the memory of the late Sir George Prevost, in this or any other respect.

The following private despatch from Sir George Prevost to earl Bathurst, relating to the Plattsburgh expedition is interesting:—

[PRIVATE.]

"Montreal, 21st Sept., 1814.

"My lord,—In my despatch from Plattsburgh, of the 11th instant, I reported to your lordship the unfortunate event which induced me to withdraw the troops with which I had advanced into the enemy's territory. My reasons for that measure I can more fully explain to your lordship in a private communication than it might be proper to do in a public letter.

"Your lordship must have been aware, from my previous despatches, that no offensive operations could be carried on, within the enemy's territory, for the destruction of his naval establishments, without naval support. Having ascertained that our flotilla was in every respect equal to the

* A short memoir of this gentleman is placed in the Appendix,—letter F., Vol. IV.

enemy's, and having received from captain Downie the assurance, not only of his readiness, but of his ability to co-operate with the army, I did not hesitate in advancing to Plattsburgh, and confidently relying on the successful exertions of the squadron, I made my arrangements for the assault of the enemy's works the moment it should appear.

"The disastrous and unlooked for result of the naval contest, by depriving me of the only means by which I could avail myself of any advantage I might gain, rendered a perseverance in the attack of the enemy's position highly imprudent, as well as hazardous. From the state of the roads, each day's delay at Plattsburgh rendered my retreat more difficult. The enemy's militia was rising *en masse* around me, desertion increasing, and our supply of provisions scanty.

"Excluded from the use of water communication, and that by roads passing through woods and over swamps, becoming, from the state of the weather, as well as from the obstructions made by the enemy, nearly impassable—under these circumstances, I had to determine whether I should consider my own fame, by gratifying the ardour of the troops in persevering in the attack, or consult the more substantial interests of my country, by withdrawing the army which was yet uncrippled, for the security of these provinces; in adopting the latter measure, I feel that I have accorded with the views of his Majesty's government, and that a contrary conduct would have been attended with immediate and imminent danger to this province.

"The most ample success on shore, after the loss of the fleet, could not have justified the sacrifice I must have made to obtain it. Had I failed, as such an event was possible, after the american army had been cheered by the sight of a naval victory, the destruction of a great part of our troops must have been the consequence, and with the remainder I should have had to make a precipitate and embarrassed retreat, one very different from that which I have made.

"These are considerations which, without doubt, will have their due weight with your lordship, and induce you, I trust, to view the measures I have adopted as those best

calculated to promote, as well the honor of his Majesty's arms, as the safety of this part of his dominions.

"I herewith transmit a comparative state of the force of the two squadrons, in order that your lordship may be satisfied with my reasons for not discouraging a naval engagement, in which, if all had done their duty*, I should have had a very different report to make.

"I have the honor to be," &c.

"The right hon. earl Bathurst."

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* This was not intended as any reflection on the late captain Downie. It is explained by the following extract from James's Naval Memoirs, p. 411, shewing the opinion of the american naval commander, as to the result of the action on Lake Champlain:—

"Commodore Macdonough, taking lieutenant Robertson, when presenting his sword, for the british commanding officer, spoke to him as follows:—'You owe it, Sir, to the shameful conduct of your gun-boats and cutters, that you are performing this office to me; for, had they done their duty, you must have perceived, from the situation of the Saratoga, that I could hold out no longer: and indeed, nothing induced me to keep up her colours, but seeing, from the united fire of all the rest of my squadron on the Confiance, and her unsupported situation, that she must ultimately surrender.'—Here is an acknowledgment, candid and honourable in the extreme."—Lieutenants Rayot and McGee, both officers of the royal navy, and in charge of the gun-boats, did not after their discreditable flight on this occasion, presume to shew themselves again in Canada, and not appearing subsequently in England to take their trial, were struck off the navy list.

# CHAPTER XXIV.

Reflections on the state of the Province—parliament convoked—Mr. Vallières chosen speaker in the absence of Mr. Papineau—governor's speech—proceedings against the intended union by both houses—petition to the king and parliament—message to the assembly relating to Sir Francis N. Burton, the lieut. governor—Eastern Townships erected into a judicial district, and a bill introduced to admit them into the representation—the latter lost in the council—estimates of local establishments sent down and voted—bills of indemnity—appointment of an agent reconsidered—attack upon the press—embarrassments of the receiver general, and defalcation in the public chest—*Canada Trade Act* considered—appropriations of the session—prorogation—government relinquishes for the present, the projected union—lord Dalhousie sails for Halifax on a visit—new official gazette—legislature meets—proceedings relating to the late receiver general—monument proposed to the memory of sir George Prevost—consideration of *Canada Trade Act*—estimates for the year—voted by a majority of *one*—resolutions prefixed to the vote—salaries reduced twenty-five per cent—bill accordingly passed and sent to the legislative council—rejected—address by the legislative council to his majesty—call by the governor on the assembly to refund to the military chest certain advances he had made from it—the call disregarded—claim of the United States to the free navigation of the St. Lawrence—application from Upper Canada for certain war indemnities—rejected by the assembly—clergy reserves—arrears of duties and drawbacks claimed by Upper Canada—change of the

feodal tenure as provided in the *Canada Trade Act*—vote of thanks to Sir James McIntosh—prorogation and speech—formation of "The Literary and Historical Society of Quebec"—earl of Dalhousie embarks for England on leave of absence—miscellanies.

ap. IV. 23. It must be evident to the reader, that prejudices of national origin were at work, and that animosity and antagonism had been stirred up and now existed, in full force, between the races—that there was little or no sympathy between the governed and government—governors deeming themselves, it would seem, in the license some of them had unwarrantably assumed, something more privileged than the sovereign, and colonists something less than british subjects—and that the executive and house of assembly differently composed, the latter, for by far the greater part, of persons of colonial birth; the former chiefly of european, or, as it was now customary, by the canadians of french origin to denominate them, "*foreign*" growth—had entered upon a quarrel about principles of the constitution and government of the province, the result of which it was impossible to foresee, though all felt that disorder and violence would grow out of it. The defalcation in the receiver general's chest, which, about this time, was publicly declared, together with the pretensions advanced by the assembly, in connexion with the civil list, over the whole finances of the province, gave to the misunderstanding in question the inaccurate denomination of "*financial difficulties*," a mis-

nomer by which many in the province, and particularly those at a distance from it, may have received a false impression of the matter, and wholly misunderstood the points at issue, which were rather constitutional than financial. The assembly were asserting a controul over the public funds of the province, appropriated as well as unappropriated, with a view to the enlargment of their own powers, and the receiver general had, during the dispute, become insolvent it is true, but there was no embarrassment in the finances themselves.—On the contrary, they were rather in a flourishing condition. It was, in fact, the commencement of a contest for power and "the spoils." Chap. XXIV. 1823.

It had, indeed, been long a subject of general complaint, by that part of the population constituting the majority in the province, that it was not governed in accordance with the feelings and wishes of the inhabitants, and this as said, was owing to the exclusive character of the executive and legislative councils, which were constituted chiefly of the official class, or of persons of british origin, in no respect representing the popular or canadian interests, and who, it was alleged, had little or no sympathy, with the great body of the people. Until those bodies were liberalised by the introduction of native colonists of independence and weight in the colony, and a more domestic, social, and homelike character by that means given them; the inhabitants of the province, it was also urged, could place no confidence in

Chap. XXIV. 1823. them, nor would a thorough good understanding and harmony prevail between the three branches of the legislature. It was retorted upon those of this opinion, that the class alluded to were anti-british in feeling and unconstitutional in their views, and consequently not to be relied upon nor entrusted with power, of which it was alleged they already had far too much,—that if the british interests were over represented in the councils, they were also but very inadequately represented in the assembly, and that the one would compensate for and balance the other. The soundness of the former arguments was generally admitted by the well-informed of the british unofficial class, but the new pretensions of their fellow subjects of french origin, to a separate "*nationalité*," in which their own quality of british subjects was to be merged, were exceedingly distasteful to, and justly alarmed them, as a doctrine incompatible with their allegiance, revolting to their feelings, and prejudicial to the best interests of the colony. They were quite disposed to go with them in all just reforms in the legislative bodies, as well as in the executive and judicial departments, consistent with the constitution, and conducive to the public good and permanent connexion of the colony with Great Britain, and to respect their religion, their laws and even their prejudices; but were far from entertaining a desire to part with their national character for that which it was now proposed to set up and invest them with, or

to repudiate their own honest english prepossessions or prejudices in mere complacency to,much less adopt in their stead those of frenchmen, (as seemed to be expected of them,) and as indeed, some few, of british origin, from motives best known to themselves really have done, or at least feigned to do, and, in certain instances, to profit. Chap. XXIV. 1823.

The contemplated union of the Canadas being considered by the majority of the population of the province, a measure of coercion and rigour, somewhat cooled the ardour of the representatives, who, accordingly met, on the 10th of January, in a spirit of circumspection, if not of conciliation.*

Mr. Papineau, the speaker, without officially notifying the governor of his departure for England, had, previous to it, informed the clerk of the assembly, by letter, that owing to his intended absence, he could not attend his duties as speaker of the assembly, at the approaching session. The governor, after the assembly had, in the usual manner, been summoned to the council chamber, informed them, through the speaker of the legislative council, that, " being apprised of Mr. Papineau's absence, by which he had rendered himself unable to attend the service of the assembly, as speaker, and being desirous that the public affairs might receive no delay, he gave leave

* The *quorum*, which, in the last session, as previously noticed, had been fixed at twenty-six, a majority of the whole assembly, was this session reduced to twenty-one.

Chap. XIV. 1823.

to the assembly, to choose a new speaker, and that they were to present the person, who should be chosen, to his excellency on the morrow, at two o'clock, for his approbation."

Mr. Vallières was unanimously chosen, although a junior member, after the rejection of Mr. Bourdages and Mr. Viger, who were successively proposed.

His excellency having confirmed the choice of the house, proceeded to open the session. He stated that an act had been passed, regulating our trade with the United States of America, and our intercourse with Upper Canada, and providing for an adjustment of the differences subsisting between the two provinces—that copies of these three acts should be laid before them :—

"I am commanded to inform you"—said his excellency —"that his Majesty's ministers proposed to parliament, certain alterations in the act thirty-first George the third, chapter thirty-one, principally with a view to unite into one the two legislatures of Upper and Lower Canada; but the measure was withdrawn and postponed to the next session, in order to afford an opportunity of ascertaining the sentiments of the people of these provinces upon it.

"I have no doubt you will give your early attention to a subject of such general importance, and I will only express my hope that your deliberations upon it, will be marked by that moderation which is best calculated to give weight and effect to such representations as you may see fit to direct.

"Gentlemen of the assembly,—No bill of appropriation having passed in the last session, to enable me to meet the expenses of the civil government, you must be aware of the difficulties and embarrassments thereby thrown upon me. I have endeavoured as much as I could, to avert the great inconveniences to the public, which I stated in my message

to you of the sixth of February last, by paying up the usual established expenses for the half year then current, but I have not felt myself justified in doing so, beyond that period, and there consequently remains a very considerable arrear due to several of the public servants. Chap. XXIV. 1823.

"I shall direct a full statement of the course I have adopted, together with accounts of the receipt and expenditure for the year to be laid before you; and I shall submit to you by estimate the probable expense in this year, of those local establishments and objects of public charge, for which, according to the principles stated to you in that message, it is my duty to call upon you to provide.

"I trust that in the course of this session, you will take into consideration the whole financial accounts which have been furnished at your request, during the last two years. I have given, and am still disposed to give every facility in my power, to enable you to examine and bring these long standing accounts to a clear and final arrangement, and I must say that I see little difficulty in accomplishing the task.

"I am convinced that every member of the legislature must regret that the progress of the public interests for some years past, has been so materially interrupted. I will not, therefore, on this occasion, dwell upon past events;—the remedy lies in your hands, and to you I will leave it, with my most earnest recommendation that you will seriously consider the incalculable injuries, which have been, and must continue to be, accumulated on the province, while the executive branch of the constitution remains disabled from exercising its just and legitimate and most useful powers."

The assembly, in their address in answer to his excellency's speech, observed—

"In the order which your excellency has received to inform us, that his Majesty's ministers had proposed to the imperial parliament certain alterations in the act of the thirty-first George III., chapter thirty-first, principally with a view to unite the two legislatures of Upper and Lower Canada, and that they had likewise postponed the measure to the next session, in order to afford the people of these

Chap. XXIV. 1823. provinces an opportunity of making known their sentiments upon it, we find fresh proof of the justice of his Majesty's government and of the imperial parliament, on which the inhabitants of this country have already learned to rely with confidence.—We shall assuredly give the most serious and early attention to a subject of such general importance, and, however deep the feeling of interest which attaches us to the existing form of government, and to a constitution which we justly regard as the pledge of our security and welfare, your excellency may, nevertheless, rely on our meeting your wish, that our deliberations upon it may be marked by that moderation which your excellency justly deems so well calculated to give weight to our representations on this subject.

"We sincerely regret that your excellency should have been exposed to difficulties and embarrassments, occasioned by the unfortunate circumstances which have interposed obstacles to the passing of a bill of appropriation in the last session, for enabling your excellency to pay the expenses of the civil government. We shall apply our serious attention to the information which your excellency has given us, that you have endeavoured, as far as you could, to avert the inconveniences to the public, which your excellency stated in your message of the sixth February last, by paying up the usual established expenses for the half year then current:—that your excellency has not felt justified in so doing beyond that period, and that there consequently remains a considerable arrear to several of the public servants.

"We could not but regret that obstacles have arisen to the progress of the public interests for some years past. The repeated offers of the commons of this province, to provide, so far as might depend on them, for the wants of his Majesty's government, as well as their grants in aid of the development of the resources of this country, are a pledge of their disposition to obviate the difficulties which the executive branch of the government may encounter in the exercise of the rights and power with which it is invested by the constitution.

"We shall give our serious attention to the subjects which your excellency intends to communicate to us for our

consideration; and your excellency may always rely on finding in us that spirit of moderation and honorable zeal, which alone can lead to a full and faithful discharge of our duties to our sovereign and our country."

The subjects adverted to in the speech, particularly the union, being deemed of the highest importance, a call of the assembly was ordered for the 21st January, in order that a decided expression of the whole house on the subject, might be given.

The legislative council discussed the subject, and passed several resolutions, by a majority of fifteen against five, deprecating the proposed union, avoiding, however, to urge any other than as general reasons against it,—" the fears and apprehensions, jealousies and discontent it might excite" among " a people warmly attached to their present constitution." They also declared, that as councillors chosen by his Majesty in this province, they felt they would be guilty of a dereliction of their solemn duty did they not declare, as their firm opinion, that the union of the two legislatures, would have a direct tendency to weaken and embarrass the administration of his Majesty's government, and ultimately create discontent in the minds of his Majesty's subjects in this colony.*

* In the legislative council, the following protest was entered against the vote for an address to his Majesty, praying that a union of the Canadas might not take place:—

" *Dissentient*—

" First—Because the union of Upper and Lower Canada, under one legislature, would afford satisfactory, constitutional, and effectual means of removing those fiscal difficulties which have hitherto existed, and which, under the present order of things, must continue to exist, and excite jealousy and disaffection between the provinces.

The assembly, when the subject came on, passed several resolutions, by a very great majority, after some warm debates.*

"Secondly—Because such union would encourage the introduction of a numerous population from the parent state, and give to the province of Lower Canada, a british character.

"Thirdly—Because such union would greatly increase the physical strength of both provinces, and facilitate above all other measures, their power of resisting a common enemy.

"Fourthly—Because such union, by encouraging the settlement of the waste lands (as well seignorial as others) would greatly augment our commercial resources, increase the value of all real property, and give an impetus to the prosperity and improvement of both provinces, which would render them one of the most valuable appendages of the british empire."

(Signed) "JOHN RICHARDSON, JAMES IRVINE,
HERMAN W. RYLAND, RODERICK MCKENZIE,
CHARLES W. GRANT, WM. B. FELTON,"

* These resolutions follow :—

"That this house participates in the surprise and grief felt by a very large majority of his Majesty's subjects in this province, on learning that his Majesty's ministers have proposed to parliament alterations in the act 31, Geo. III., cap. 31, chiefly with a view of uniting the two legislatures of Upper and Lower Canada.

"That the constitution conferred on the province by the said act, and the separation of this Province from Upper Canada were, on the part of the imperial parliament, an act of justice as well as beneficence towards the inhabitants of both provinces, by giving to each the means of preserving entire the rights and privileges which were guaranteed and secured to them by the faith of government.

"That the passing of the said act hath been one of the most effectual methods of making known to the inhabitants of this province, the magnanimity of the british character, and hath for ever secured to his Majesty's government the inviolable confidence, affection and fidelity of all classes of his Majesty's subjects in this colony.

"That the said act, modelled on the constitution of the mother country, by some of its greatest and wisest statesmen, establishes powers sufficient to remedy abuses, redress injuries, allay discontents and provide for the general welfare of the province.

"That not only do the reasons which occasioned the passing of the said act still exist in full force, but they have even gained additional strength, from the happy experience therein acquired by the inhabitants of this province, and from their regarding the same with reason as the unchangeable foundation of their laws, their institutions, and most dearly cherished rights.

"That were the proposed alterations adopted by parliament, the result would be that the two provinces having laws, civil and reli-

The resolutions of the assembly were embodied in petitions to the king and parliament. That to his Majesty was, at the request of the assembly, transmitted to England by the governor. The addresses to the two houses, were forwarded to Messrs. Papineau and Neilson, in in England, to be submitted by them.



His excellency at an early period of the ses-

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gious institutions and usages essentially different, would be subjected to one and the same legislature, whose decisions would alternately endanger the laws and institutions of either province—That there would thence result well-founded apprehensions respecting the stability of those laws and institutions, fatal doubts of the future lot of these colonies, and a relaxation of the energy and confidence of the people, and of the bonds which so strongly attach them to the mother country.

"And on the question being put upon each paragraph, they were agreed to with the following division:—

Yeas—Messrs. Dessaulles, Bélanger, A. Perrault, Rochon, Prevost, Dumont, Fortin, Heney, Franchère, Fournier, Proulx, Mousseau, Robitaille, Déligny, Bourdages, Langevin, Davidson, Clouet, Arcand, Quesnel, Picotte, Taschereau, Cuvillier, Viger, J. Perreault, Taché, L. Lagueux, Badeaux, Amiot, E. C. Lagueux, and Quirouet.

Nays—Messrs. Ogden, Oldham, and Garden.

"And the same were ordered to be engrossed; and the address to his Majesty was ordered to be presented to his excellency the governor in chief by the whole house, with an humble address to his excellency, requesting he will be pleased to transmit the same to his Majesty's ministers, to be by them laid at the foot of the throne.

"After which, messengers were appointed to wait upon his excellency to know when he will be pleased to receive the house with its address.

"It was then ordered, that the clerk of the house be enjoined to transmit with all possible diligence, copies of the resolutions of the house of the 21st instant, to Louis Joseph Papineau and John Neilson, Esquires, charged with carrying the petition of the inhabitants of this province to the imperial parliament, and with supporting the same in England; and resolved, that the house, actuated by a sense of confidence in the integrity and honor of the said Louis Joseph Papineau and John Neilson, esquires, assured of their attachment to his Majesty's government and this country, request them to take measures for causing the petitions of the house to be presented to both houses of the imperial parliament."

It may not be *hors de propos* here to observe, that the constitution now so vehemently lauded, as establishing "powers sufficient to re-

Chap. XXIV. 1823. sion of the legislature, acquainted the assembly by message, that the arrival of the lieut. governor, Sir Francis N. Burton, made it necessary that a residence should be provided for him, and that a furnished house had accordingly been taken for his excellency, at the rate of £500 currency, per annum, which he recommended the assembly to provide for; and that in order to enable the lieut. governor to live in the province in a manner becoming his station, a sum not exceeding £1000, sterling, be added to his present salary.

The lieut. governor had become popular; and the assembly cheerfully voted the allowance recommended. A bill was accordingly passed, augmenting his salary, (which previously stood at £1500) to two thousand five hundred pounds, sterling, during his residence in the province; and the further allowance of £500, currency, for house rent.

The Eastern Townships, hitherto neglected were, this session, attended to by the assembly. Separated from Montreal and Quebec, by a wilderness, through which there hardly was a practicable footpath, whereby the inhabitants could come to market with their produce, or to the courts, for justice, loud complaints

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medy abuses, redress injuries, allay discontents and provide for the general welfare of the province"—and considered "by the inhabitants of this province, as the unchangeable foundation of their laws, their institutions, and their most dearly cherished rights," was, however, notwithstanding all this and more, as the reader will see in the sequel, as vehemently cast aside and repudiated, before the expiration of some twelve short years after this epoch, as it was previously extolled.

of oppression and injustice, as previously observed, were made by them against the majority of the assembly, as anti-british, and opposed to the progress of the Townships, where a british population, altogether unrepresented in the legislature, were located, and left unaided by it, to struggle against the difficulties of their position. The sensation produced by the intended union, operated in their favor. Chap. XXIV. 1823.

The assembly, pursuant to the recommendation of the governor, took their remonstrances into consideration, and passed a bill, erecting, for judicial purposes, the inferior district of St. Francis, so called from the river of that name which traverses it. A provincial court and judge to reside in the district, with jurisdiction in personal actions, to the amount of twenty pounds, sterling, as well as a court of quarter sessions of the peace, were established in it.*

* The following messages relative to this subject and the establishment of registry offices, were sent by his excellency to the assembly:

"The governor in chief having received many representations of the evils and inconveniences to which the inhabitants of the Eastern Townships are exposed, in consequence of their remoteness from the courts of law, and the difficulty of obtaining justice in matters either criminal or civil, recommends to the house of assembly to take the subject into consideration, and to provide such remedy as they shall deem expedient. "DALHOUSIE."

"Castle of St. Lewis, Quebec, 4th Feb., 1823."

"The governor in chief calls the attention of the house of assembly to the expediency of enacting a law for the public registry of instruments conveying, charging, or affecting real property, with a view to give greater security to the possession and transfer of such property, and to commercial transactions in general.

"DALHOUSIE."

"Castle of Saint Lewis, Quebec, 4th Feb., 1823."

This latter message was not attended to this session. The first registry offices were established in the eastern townships, but not until 1830.

ap. The assembly came also this session to the
v. resolution that it was expedient to augment
3. the number of representatives to serve in that house. This was in consequence of petitions presented the previous session from the Eastern Townships, complaining that practically they were excluded from the legislature. They were now sufficiently populous, they thought, to be erected into separate counties, independently of those whereof heretofore they were but isolated portions, cut off by distance and the want of roads of communication, from their right of voting at the places (french canadian settlements) of election for the counties to which respectively they belonged. A bill accordingly was introduced, and passed by the assembly, but the legislative council rejected it. The bill was objectionable, it was said, inasmuch as that, while it proposed to admit the townships—constituencies of british origin hitherto wholly unrepresented—to return five or six members to the assembly, it also, to outweigh them, let in five or six times that number, from new subdivisions of the constituencies of french origin, in addition to those by whom they already were adequately represented in the assembly—it being precisely the predominance of that influence in the legislature that constituted already the grievance the most vehemently complained of, and represented as anti-british and anti-commercial in character, as they characterised it in their petitions to the king and parliament in reference to the intended union.

he estimate for the year was laid before
ıssembly, on the 5th February, by mes-
, stating that the governor, in order to
/ more clearly the nature of the general
:nses of the government of the province,
the current year, had classed them into
schedules :—one comprehended those
ies and contingencies provided for, by
ıanent acts, and the other revenues of the
n; and it gave him, he observed, plea-
to express his hopes, that in consequence
ıe act passed in the last session of the
rial parliament, the revenue raised by the
f the 14th Geo. III., chap. 88, and appli-
to these services, would be nearly, if not
adequate to the payment of them. The
was an estimate of the expenditure to be
red in defraying the local and provincial
lishments, to which his message of the
February last, particularly referred, and
hich it again became his duty he said to
)on the legislature to provide.
e first of these schedules consisted of a
:omprehending the governor, lieutenant
ıor and certain officers immediately at-
l to the former, including the agent of

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the inspector of public accounts; and the salaries and contingencies of the receiver general; and clerk of the terrars; amounting in all to £32,083 11s. 3d., sterling. These were considered to be provided for by the appropriated revenue at the disposal of the crown towards the support of the civil government.

The second, comprehended those offices and objects of public charge, denominated "*local establishments*," which it was expected should be provided for by a vote for the present year only. These consisted of:—first, the legislature and its permanent officers. including the speakers of the legislative council and assembly:—secondly, the expenses of printing the laws:—thirdly, salaries to schoolmasters:—fourthly, the pension list:—fifthly, rents and repairs of public buildings, and the salaries and disbursements of those employed in the charge of them:—sixthly, the expense of collecting the public revenue, under provincial laws:—seventhly, the expenses of the Trinity House:—eighthly, the militia staff and contingencies:—ninthly, the expenses for criminals and for houses of correction; and finally, a tenth chapter or article of miscellaneous charges, consisting of salaries to the grand voyer and various other purely local officers; to residents on Anticosti, to assist mariners in distress; assessments on public buildings, and other small charges; making a total of £30,225 19s. 5d., sterling.

This classification was animadverted upon, as springing from the interested and sordid policy of those immediately surrounding the governor's person, and in his confidence. The assembly, nevertheless, keeping in view the attention which the government at home now seemed disposed to give the affairs of the province, voted the sums necessary to defray the salaries and pensions for the year, constituting the local establishments. In doing this, they prefaced their votes with certain resolutions,*

* The following are the resolutions alluded to:—

Resolved, That it is the opinion of this committee, that the application of any sums of money levied on his Majesty's subjects in this province, cannot lawfully be made in any other manner than is expressly directed by law.

Resolved, That it is the opinion of this committee, that no law imposing duties or taxes on his Majesty's subjects in this province, providing funds for defraying the expenses of his Majesty's civil government, and those of the administration of justice or of the legislature in this province, can be held to confer upon any person the power or the right of applying the monies thence arising or making a special appropriation and distribution thereof without the consent and authority of the legislature.

Resolved, That it is the opinion of this committee, that this house having most humbly made offer to his late Majesty king George the third, of glorious memory, to provide for the expenses of his Majesty's civil government in this province, his Majesty was pleased to accept the offer of this house, and that his royal will in that behalf was signified to this house by his excellency sir John Coape Sherbrooke, governor in chief of this province, in his speech at the opening of the provincial legislature, on the seventh January, one thousand eight hundred and eighteen, and that every appropriation of the public monies or any part thereof, to the payment either of the expenses of the civil government or of the administration of justice, or of any other public charge of this province, without the participation and consent of this house, is a manifest violation of the rights and privileges of this house.

Resolved, That it is the opinion of this committee, that this house have always been and still are disposed faithfully to fulfil their engagement towards his Majesty, by granting annually to his Majesty every necessary aid towards defraying the whole expense of the civil government and of the administration of justice, and other objects of public charge in this province, when and as often as this house shall

ap. IV. 23. tantamount to a protest against the classification adopted by the executive, professing also their willingness "to fulfil their engagement toward his Majesty, by granting *annually*, every necessary aid towards defraying the whole expense of the civil government, and the administration of justice, and other objects of public charge in the province, as often as they should be thereunto required by his Majesty, or his representative in this province."

Bills of indemnity for the monies expended, without the sanction of acts of the legislature, towards supporting the civil government for the preceding four years, were passed by the assembly; that body taking their own votes during those several years, as the standard by which the proposed indemnity was to be regulated. The title to these bills being to "reimburse and *indemnify* his Majesty," gave umbrage in the legislative council, as unbecoming and offensive. The bills were rejected, as well on this account, as because they did not cover the entire amount of expenditure: and also, because they contained clauses affecting the appropriated revenue.

The bill of appropriation for defraying the

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be thereunto required by his Majesty or by his Majesty's representative in this province.

Resolved, That it is the opinion of this committee, that this house not being required by his Majesty nor by his representative in this province, to provide for the whole expense of the civil government, the administration of justice and other public charges for the present year, but for a part only of those expenses, do, for that sole reason abstain from providing for the whole of that expense, and that otherwise this house would readily have provided for the same."

expenses of the local establishments for the current year, specified by items, the several salaries allotted to the respective officers. The monies appropriated for the purpose, were according to the appropriating clause " to be taken from and charged against the *general funds of the province*, arising from any act or acts in force therein, and from any of the revenues of his Majesty, applicable to the purposes" of the act; that is to say, towards the support of the civil government.

The assembly intended, by the terms "*general funds of the province*," there being no funds legally so denominated, to save their pretensions to the controul of all monies levied in the province, appropriated as well as unappropriated. The ambiguity did not escape the legislative council, which passed the bill with a protest, however, declaring they would not in future pass another of the same kind; and that they had concurred in the present, to prevent the great general and individual distress which its rejection would have rendered unavoidable.

The assembly resumed the consideration of the appointment of an agent in England, and agreeably to the advice of Mr. Marryat, as already noticed, requested the legislative council, to concur in the appointment of a person or persons to reside as such near his Majesty's government in England, to attend to the interests of the province. The legislative council refused to concur in the measure, and

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nothing further was done towards it during the session.

Among the matters of minor importance that occurred, some deserve notice. The excitement produced by the intended union, vented itself in acrimonious reflections on either side, through the press; each party representing the designs of the other, as hostile to the government or oppressive to the people: the unionists reproaching their opponents with disaffection, and the latter retorting upon the former, their disposition to rule with arbitrary sway. After the resolutions of the two houses of the legislature had gone abroad, the unionists, provoked at the determined aversion which had prevailed there, against their favourite measure, expressed themselves in some instances more warmly than excusable, even under the mortification of party discomfiture. Offence was taken at the remarks of the editor of "*The Canadian Times*," (a paper then published at Montreal,) who observed, that "the resolutions and addresses of the legislative council, and the house of assembly, could not be productive of surprise, when the majorities by which they were carried, shew how completely anti-british was the composition of these bodies."

The legislative council took no notice of these remarks, but the assembly by a resolution, declared them a false and scandalous libel upon the house, and a manifest breach of its privileges. It was therefore ordered, that

the editors and publishers of the paper be accordingly taken into custody by the sergeant at arms, and brought to the bar of the house. Ariel Bowman, one of the editors, was taken into custody, by a messenger despatched to Montreal for the purpose, but escaped. The other, Edward V. Sparhawk, kept out of the way and was not apprehended. Chap. XXIV. 1823.

In the embarrassments of the receiver general, who it would seem had for some time been upon the verge of insolvency, the governor was induced, for the purpose of enabling him to pay the expenses of the civil government, for the half year, expired on the first of May, 1822, and to meet other incidental expenses during the remainder of the year, to place upon his own responsibility in the provincial treasury, thirty thousand pounds from the military chest. He acquainted the assembly of the circumstance, early in the session, and called upon the house for immediate repayment of the amount to the military chest. The assembly would consider the loan in no other light than as a personal favor to the receiver general, who, at that time, instead of being deficient, ought, it was said, to have had upwards of one hundred thousand pounds disposable, of the public money in his hands, and therefore took no notice of the call, but proceeded to vote the necessary sums for other public purposes, as if that money were actually in the chest, although the contrary was now evident.

Mr. Caldwell, was, notwithstanding, after

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this, suffered to remain in office, until the opening of the ensuing session, by which time, his embarrassments had become so obvious as to render his removal indispensable.

The assembly took into consideration the "Canada Trade Act," and requested the governor to lay before them, copies of any address or addresses to his Majesty, by the legislative council and assembly of Upper Canada, upon the financial concerns of that province with Lower Canada, and the papers and documents accompanying the same, that had been transmitted to his excellency by the lieutenant governor of Upper Canada, during the last session of the legislature of this province. The governor in compliance with the request, accordingly transmitted to the assembly the papers received on this subject from Upper Canada, and which, as he informed them, had come too late to be laid before the last session of the legislature. They contained the report of a joint committee of the legislative council and assembly of the province, dated 22d October 1822, giving a detailed and lucid statement of the matters in discussion between the two provinces, and of the fruitless negociation which had been carried on between their respective commissioners. It was upon this document, drawn up with great ability, and grounded upon official and notorious facts, that the minister brought the subject before parliament; taking, without referring to the legislature of Lower Canada, immediate steps in parliament

to relieve the upper province from the temporizing policy by which the assembly of the former had annoyed it, and which eventuated in the act in question. The present deliberations of the assembly on it, evaporated in a resolution that they would, at an early period of the ensuing session, take the act into most serious consideration.

Several appropriations were made this session, exclusive of the monies voted for the local establishments of the civil government. The company incorporated by an act of the legislature in 1818, for making a navigable canal from St. John's to the basin of Chambly, being unable to realize funds sufficient for the undertaking, an act by which the province assumed the enterprise was passed and an appropriation of fifty thousand pounds made for the purpose. Twelve thousand pounds in addition to the appropriation already made for the Lachine canal, were also voted. Pensions were also at the recommendation of the crown, provided for Mr. Monk, chief justice at Montreal, and Mr. Ogden, a judge of the same court, both superanuated, and who therefore, were, on retiring, by the vote now passed, to receive, the former five hundred and fifty, and the latter, four hundred and fifty pounds, sterling a year. Two thousand one hundred pounds, currency, were appropriated for the encouragement of agriculture. Eight hundred and fifty pounds were conferred upon the society of the Montreal General Hospital, and upwards of two

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thousand pounds upon the ladies of the Hotel Dieu of Quebec, as an aid to enable them to complete certain improvements to their hospital. Two hundred pounds were also granted in favor of a society for education at Quebec, consisting of individuals who had formed, by voluntary contribution, a small fund for the purpose, and which the legislature therefore encouraged. The assembly presented, in the course of the session, an address to the governor, requesting he would communicate to the house the instructions transmitted, from time to time, by his Majesty's government, relating to the jesuits' estates in the province, and to the application of the revenues therefrom for education. To this his excellency answered that having referred to former proceedings upon the journals of the house of assembly, in the year one thousand eight hundred, he did not think he could comply with the request of the address, without having obtained special permission so to do.

His excellency closed the session on the twenty-second of March, which, having been characterised by diligence and liberality, enabled him to part with the assembly in terms of commendation:—

"He had seen with great satisfaction,"—he said—"that the various subjects submitted to their consideration in the course of this Session, had been discussed with all that diligence and attention, which the peculiar circumstances of the Province so much required.

"The acts passed to facilitate the administration of justice and to extend the advantages of it to the distant parts of

the country, the encouragement continued to agricultural societies and canals, the regulations adapted to the trade of the province, and the assistance afforded to charitable institutions, were"—he said—" unequivocal testimonies of the public spirit which had animated them in the discharge of their legislative duties. Chap. XXIV. 1823.

He thanked the assembly " for the supplies granted, and the liberal appropriations made for the purposes which he had recommended, and he assured them that on his part they should be faithfully applied.

He " regretted that difficulty had been found in the establishment of offices of registry. He hoped, however, that the subject would still be kept in view as one of the highest importance, affecting equally the security and the value of private property, and that they would, at a future period, again take it into consideration.

" I have not failed"—said he—" to transmit your respective addresses to his Majesty, upon the subject of the union of the legislatures of the Canadas. I trust that the people of this province will now await the decision of this important question with that full confidence, which, from the experience of more than sixty years of happiness and prosperity under the british crown, they ought to place in the wisdom and justice of the imperial parliament, and in the paternal views and intentions of their sovereign.

" It only remains for me to offer my warmest thanks for your assiduous and laborious attendance. The hopes I lately expressed to you, have been fully realized, and I think it must be gratifying to you to be assured, that I esteem the result of the session to be at once honorable to yourselves and useful to your country."

Shortly after the prorogation, an official announcement was made by order of his excellency, that he had received information of the determination of his Majesty's government to relinquish for the present the proposed measure for the legislative union of the provinces, of the policy and propriety of which, however,

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in the abstract, his Majesty's government still, it was said, retained their original opinion.

The governor sailed for Halifax on the 24th of June, on a visit to Nova Scotia, where he was received with great demonstrations of respect by the inhabitants. His exertions while lieutenant governor of that province, in promoting its agriculture, had been crowned with wonderful success, and he now, after an absence of three years, had a fair opportunity of witnessing the improvements resulting from them, seconded as they were, by an intelligent and industrious population. He visited various parts of the province, every where receiving the most gratifying proofs of the high estimation in which he was universally held. Having accomplished his tour, he returned to Quebec on the 12th August, (the anniversary of his Majesty's birth day) in time to review the troops in garrison, and to celebrate the day with the accustomed honors.

A new official gazette, under the immediate authority of the executive government, was issued in October, a commission which, in July 1822, had been given to Mr. Samuel Neilson, as king's printer, being revoked, and another issuing for the purpose, in favor of J. C. Fisher, esquire, an english gentleman and classic scholar, well versed in the literature, laws and institutions of his country, and who had recently been editor of the Albion, a paper of english principles, published at New York.

This gave offence to Mr. Neilson, whose

paper had hitherto been the channel of all official and legal notices, consequently a source of considerable revenue to him, and who applied to the court of king's bench, in Quebec, for redress, but failed.*

This step by the governor, although there were apparently strong reasons for it, at the time, was by many deemed ill-advised and highly injudicious, as it afterwards really proved to be, in placing one of the strongest minds, if not the strongest in the country, in array with others, though of far less formidable character, against his excellency.

The legislature met on the 25th November, which being the last session of this parliament, it was expected would be an eventful one. The governor informed the two houses that it was painful to him to meet the legislature each succeeding year, with statements of difficulties in the financial affairs, but as they still existed, it was incumbent on him to bring them forward in the fullest detail, and that it was for that

* The politics to which the Gazette was inclined, were thought irreconcileable with the course an official paper, ought to follow. It was, therefore, deemed necessary by the executive, that an appointment of king's printer, should take place and a commission to that effect was offered to the elder Mr. Neilson. This he declined, probably not wishing to place himself in the situation of a dependent upon the executive, but at the same time, relinquished the editorial responsibility of the Gazette, to his son, who took the commission. After this his Gazette purported to issue "*by authority*," and continued so until the appointment of Mr. Fisher.

The following gives a comparative view of the number of vessels and their tonnage arrived at the port of Quebec, up to the 30th October 1822, and to the same date this year :—

| | Vessels. | Tonnage. | Men. | Emigrants. |
|---|---|---|---|---|
| 1822..... | 583 ..... | 145,272 ..... | 7080 ..... | 10,465 |
| 1823..... | 538 ..... | 134,062 ..... | 6530 ..... | 10,188 |

Chap. XXIV. 1823. especial purpose he had called them to meet at this early period. His speech was short and conciliatory. "We are"—said his lordship, in concluding it—"at the last session of this parliament. Let it be the anxious desire of all to close our labours in that harmony and effectual concert which always promote public good, and ensure public prosperity. In that desire, I think I need not assure you of my cordial concurrence." The consideration of the judicature bill and that for the establishment of register offices, which had already been under consideration, he recommended them to resume.

The receiver general, Mr. Caldwell, had been formally suspended from the duties of his office, on the 23d November, which, in fact, he also had virtually been, from the 14th August preceding; the revenue by law payable into his hands, having then been placed under the controul of two persons, one a member of the executive council, the other a member of the assembly, without whose order he neither could receive or pay away any public monies. Of this measure, the governor gave the assembly notice by message.*

* The governor in chief having experienced great difficulties in the public service, during the last summer, by the embarrassment of the receiver general's office, lays before the assembly for their consideration a full statement of the circumstances that have occurred.

"Having directed his attention, immediately on the close of the last session of the legislature, to ascertain the state of the funds upon which the large appropriations had been granted during the session, there appeared to be an available balance in the receiver general's hands, of ninety-six thousand pounds, and he called upon that officer to declare whether he was prepared to meet warrants to that amount.

"The receiver general produced various accounts and statements shewing claims on the part of the province on the imperial treasury

The defalcation in the provincial chest amounted to £96117 13s. 4d., stg., according to Mr. Caldwell's own statement. He had, on entering office in 1811, assumed the responsi-



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and the military chest, the payment of which into his hands, would enable him to meet the demands of government, and in time to pay up the actual balance of his accounts with the public; but it appeared that he was not then prepared with that balance to meet the warrants for the public salaries, to be drawn upon him, and a further request was submitted by him that the warrants for the public salaries payable on the first May, might not be issued until the first of July, when the revenue of the current year would place funds in the chest.

The governor in chief agreed to this last request; but the question as to the repayment of the sums claimed by the receiver general as due to the province, being one on which his Majesty's government could alone decide, it was accordingly referred to them, and Mr. Davidson was sent to England as a messenger, both on the part of the provincial government and of the receiver general, with voluminous papers to be submitted to the lords of his Majesty's treasury.

"The governor in chief returning to Quebec in August, from a distant part of his government, was informed by public rumour, of encreased embarrassment in the receiver general's office, and shortly afterwards received a declaration from that officer himself, that he was unable to meet any further warrants to be drawn upon him.

"Under these circumstances it became the duty of the governor in chief, to take immediate measures to guard the public interests, and to prevent any embarrassment in the necessary operations of government. For these purposes, and until an answer should be received from his Majesty's government, he appointed a commission of two gentlemen, to inspect and controul the operations of the receiver general's office, and took upon himself the responsibility of granting loans from the military chest, according to the urgent necessities of the civil government.

"No intimation having yet been received from the lords of his Majesty's treasury, that they will admit the claims advanced by the receiver general on the part of the province; but there being reason, on the contrary, to believe that this will not be done; the governor in chief has been compelled, in the absence of the expected instructions from his Majesty's government with respect to the receiver general, to take that step by which alone, under these circumstances, the public service can be continued in a legal, secure, and regular course, by suspending the receiver general from his office, and appointing another person to fill it, until his Majesty's pleasure shall be known, or until such arrangements shall be made, as shall replace the deficient balance in the chest, and consequently render this measure no longer a matter of necessity.

(Signed) "DALHOUSIE."

"Castle of St. Lewis, Quebec, 29th Novr., 1823."

Chap. XXIV. 1823. bility for £39,874 10s. 10d., sterling, upon the strength of which, his father and predecessor in office, had, by the exchequer at home, been declared even and quit; and this, never in reality paid over to the receiver general, although he became responsible for it, accounted for so much of the existing deficit. It is to be observed that his salary, £500, including the allowances for a clerk, office rent, and stationary, had been for years antecedently to his failure, universally admitted as quite inadequate to the trust.

This sum he proposed, before a committee of the assembly, to which the matter had been referred, in consequence of a message on the subject from the governor, to discharge, by an assignment of property, for the purpose of sale, valued by him at £32,000, currency, and by the annual payment, during his life, of the sum of £1,500, arising from the seigniory of Lauzon, which he considered to be entailed upon his son by the will of his late father, the *usufruit* remaining with himself for life. The pretended entail was afterwards set aside, however, by the provincial courts, and their decision maintained by the king in council, against Mr. Caldwell's appeal. He also submitted to the liberality of the legislature a claim for some allowance in the nature of a set off, for services rendered by his late father and himself, in performing duties not required of them under their respective patents, in receiving and paying large sums under provincial acts, for

which no charge hitherto had been made, or per centage allowed. The amount of monies received by himself and his father under these acts, he stated to have exceeded a million and a half. An allowance, upon the sum so received, of three per cent, as given the receiver general in Upper Canada, by act of the legislature in that province, would amount to £45,471, a sum which he considered ought, in equity, to be allowed him. He also expressed his willingness to pay into the provincial treasury, a further sum of £1,000 pounds per annum, in the event of his restoration to office, with a provision by the legislature suited to its responsibility, until the whole debt were extinguished.

The assembly were averse to allow any compensation for services attended with a breach of trust. It was pretended also by it, that the responsibility of his failure ought to rest upon the Imperial government, whose officer he was.

From these considerations, and deeming the Imperial government bound, in equity, to make good the defalcation, the house declined measures pursuant to the proposals of the late receiver general, intending to lay claim for the amount against the government at home.

Pursuant to the suggestion of the committee, the assembly addressed his Majesty, representing the failure of the receiver general, as—

An "evil which had occurred in the administration of the affairs of the colony, under the controul of the authority of the empire; and which it had not been in the power of the assembly of the province to prevent.

ap. iv. 24. "That the nomination and controul of his Majesty's receiver general for this province, is vested in the lords commissioners of his Majesty's treasury in the United Kingdom; and that in virtue of royal instructions, signified to the assembly of the province previous to its passing any money bills, all the laws passed therein for raising money on the subject, vested the same in his Majesty; and provided that the said monies should be accounted for to the lords commissioners of the treasury.

"That these as well as other monies levied by acts of parliament on the subject in this province, had been paid into the hands of the receiver general, who, at no time, had accounted to the assembly of the province, but had been exclusively under the controul of his Majesty's government in the United Kingdom.

"That being informed by message from the governor in chief, of a defalcation in the monies levied on his Majesty's subjects in this province, it had been on enquiry, before a committee, found to be as stated by the receiver general £219,064 0s. 7½d, of which the receiver general claimed to have advanced on letters of credit, and for other payments uncovered by warrants, £122,946 7s. 7d, leaving an acknowledged balance in cash due by him of £96,117 13s. 0¼, sterling."

The assembly therefore submitted their case to his Majesty "on the part of all his Majesty's subjects in this province, in the hope that these might not suffer in their property, confided under royal instructions, and by act of parliament, to an officer over whom they had no controul; and that all losses of the said monies in the hands of the said officer, or disbursements thereof, without the authority of law would be made good to his Majesty's subjects in this province for the uses for which they were levied."

This address was, on the petition of the assembly, forwarded by the governor to his Majesty's ministers.

The assembly took up, at the instance of Mr. Bourdages, the consideration of the *Prevost* administration, of which he had been an active supporter. Resolutions were adopted

expressive of the high sense they entertained of the services of that governor, in the administration of the government of the province, and in his successful defence of it, during the late war. They declared that it had been solely owing to circumstances beyond the controul* of the commons of the province, that the resolutions of the 21st March, 1815, to appropriate the sum of five thousand pounds, for the purchase of a service of plate, to have been presented to him on their behalf, had not been realized. A committee was appointed to take into consideration, and report the most proper means and effectual method of carrying into effect, and commemorating the sense of the commons of Lower Canada, with respect to the public services of sir George Prevost. The committee recommended that an equestrian statue should be erected to his memory, in a proper situation, fronting the edifice in which the commons of Lower Canada hold their sessions.†



* These were,—the refusal of the legislative council to concur in the appropriations voted for the purpose by the assembly.

† It was also recommended by the committee, that the following legend or inscription should be borne upon the monument, vizt :—

In memoriam
Illustrissimi viri
D. Georgii Prevost,
Baroneti.
Hujusce Provinciæ Gubernatoris,
Atque
Copiarum Ducis,
Canadarum Servatoris.

Hoc Monumentum
Grato animo
Decreverunt Communes
Inferioris Canadæ.
Die Januarii 1824.

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But here the matter rested. In no country are the people remarkable for gratitude to their benefactors, and perhaps less so in Canada, than in any.

The illicit importation of tea from the United States, carried on for several years, to an extent very prejudicial to the revenue, drew the attention of both branches of the legislature, which, in this session, by a joint addrsss, prayed his excellency would be pleased to represent to his Majesty's ministers, the expediency of advising such measures as might be most proper to enable the inhabitants of the Canadas, to obtain from India and China, such goods as they might require from those countries; particularly tea, either by some arrangement with the East-India company, for an annual supply, or by granting to his Majesty's subjects the benefit of direct importation. This application was attended to by the East India company, and tea sufficient for the consumption of the Province, was afterwards annually imported to Quebec, direct from Canton, in ships employed by the company, until it ceased to be concerned in the tea trade.

Messieurs Papineau and Neilson, who had, as previously observed, been despatched to England with the petitions against the Union, laid before the assembly, in letters addressed to the clerk, the result of their mission on that subject. They stated, that the minister having informed them that his Majesty's government having determined not to bring the measure

forward, the petitions to the two houses of parliament had not been presented.—That if the consideration of an Union of the provinces were resumed, the circumstance would previously be notified through the governor, to the inhabitants of the colony, in time to enable them to be heard in parliament, if they should think proper, by commissioners, by petition, or in such other manner as they should see fit. Chap. XXIV. 1824.

The consideration of the "Canada Trade Act," was revived in the present session.—Several strong resolutions were proposed on the subject. These were supported by Mr. Vallières, the speaker, but successfully opposed by Mr. Papineau, who maintained the measure to have been one of necessity, arising from the state of affairs between the two Canadas. This gentleman, who had been one of the commissioners appointed by Act of the legislature of this province, to negotiate with Upper Canada on the subject of drawbacks claimed by that province, and which had given rise to the Act, was roughly handled in the debates. The majority were, however, with him, against the proposed resolutions, of which two series were at separate periods submitted, (the second of a more qualified and temperate character than the first) and they accordingly fell to the ground.

It was then proposed to address the governor, praying he would beseech his Majesty to recommend to parliament, the repeal of the Act, on account of certain dispositions it con-

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tained, contrary, as it was said, to the rights and interests of the province. This proposition was rejected by a strong majority. The matter was finally referred to a committee of seven members, for the purpose of enquiring into and reporting upon the advantage or disadvantages resulting from the Act, to the constitutional rights and interests of the province. The committee made no report upon the subject, which thus was left at rest. The trial of strength, to which it gave occasion between the late, and the present speaker, constituted its chief interest.

The assembly had sat upwards of two months and a half before the estimate of the general expenses of the civil government for the year was sent down. The delay caused some murmuring, it being thought intentional, and with a view to take the advantage of a thin house at the end of the session, but it was in fact owing to some misunderstanding on the subject among the officers whose duty it was to prepare the necessary papers.

The classification previously adopted, was preserved in the estimate now sent down, the line of distinction between those officers deemed to be provided for by permanent funds, and those considered as only of local establishment, and as such to be provided for by the legislature, being more clearly defined than before. Each class formed the subject of a distinct document. The first was denominated "a schedule of the probable expen-

diture to be incurred in the year 1824, for the regular offices, and their contingent expenses, of his Majesty's civil government, or of the administration of justice," and comprehended six chapters. The salaries attached to the offices included in this class amounting in all to £33,455 11s. 3d., sterling, the executive government considered to be permanently provided for, by the permanent revenue appropriated towards the administration of justice and support of the civil government of the province. The second was denominated an "estimate of the usual charges and contingent expenses of local and provincial establishments for the year 1824," comprehending ten chapters, amounting in all to £34,191 12s. 2d., sterling, and for which, the governor in chief called upon the legislature to provide.



The assembly, in committee of the whole, resolved by a majority of one only (14 for, and 13 against it) that a supply should be granted to his Majesty, in which the house concurred; but on motion being made, that the house should, on the ensuing day, resolve itself into general committee to consider of the supply, it was at the instance of Mr. Papineau, enjoined the committee to take also into consideration certain propositions, which he then submitted, connected with the financial affairs of the province.

Accordingly, when the supply came under consideration, the committee, by way of preface to their vote of supply, adopted, with little

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alteration, the propositions submitted. In these the executive was accused of prodigality, and of making use, illegally, of the public monies, that is to say, without the previous authority of the legislature.* The dilapidated state of the finances, owing to the failure of the receiver general, gave rise to much declamation, levelled rather at the governor personally, than against the defaulter.

In going through the civil list, which they, as previously, did item by item, they made a reduction of *twenty-five per cent.*, on every salary, from that of the governor in chief inclusively, downwards, under pretence of embarrassment in the finances, owing to the insolvency of the late receiver general. The sum thus voted for the civil expenditure of the year amounted to but £43,101 6s. 5d., sterling. The classification of offices as adopted in the estimates sent down by the government, was wholly disregarded, the assembly assuming, to apply in detail, the revenue previously appropriated, and then voting the deficiency out of the unappropriated funds.

The bill passed by the assembly on the occasion, enumerated the several offices and charges

* It is to be observed, that during the protracted misunderstanding in the legislature with respect to the civil expenditure, the governor had, in order to carry on the civil government, been under the necessity of advancing out of the treasury, on his own responsibility, the usual and necessary sums for the purpose, trusting to the faith of the legislature, to hold him harmless by an act of indemnity, whenever a return to a better understanding should take place. It was for this that the assembly found fault, as *illegally* done, although resulting from the most imperious circumstances, and to keep the government in existence.

which it was intended to defray, without specifying the items, or salaries to each, and directed that of the "funds, revenues and monies applicable to the defraying of the charges of the administration of justice and support of the civil government, levied and collected in the province, in virtue of any law or laws, statute or statutes, actually in force therein, or arising from any of the casual or territorial revenues of his Majesty, applicable to those purposes, the sum of £43,101 6s. 5d., sterling, should be paid and applied by warrant for the services of that year." This was followed by a proviso, that in case those funds, revenues and monies, should be insufficient, the deficiency should be supplied and taken from the unappropriated monies in the hands of the receiver general. In other terms, that the executive had leave to use the appropriated revenue of the crown according to the votes of the assembly, as far as it would go, and then to take the difference between it and the full amount mentioned in the bill, from the unappropriated fund.



This bill being sent up to the legislative council, was instantly, on the first reading, thrown out, it being there unanimously resolved "to proceed no further in the consideration of the same."

The legislative council having rejected the the Bill of Supply, passed several resolutions on the subject. They also addressed the king, imploring "his Majesty out of tenderness to

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The debates in the assembly, on the civil expenditure and supply were more acrimonious than at any former session. Mr. Papineau who was for withholding the supply, was conspicuous for personality against his excellency, speaking of him in terms of disrespect and as undeserving of public confidence, indulging himself at the same time in a strain of broad invective wholly misplaced, and for which, it was at the time reported, the noble earl condescended to call that gentleman privately to account and made him apologise.

The governor again called upon the assembly by message, to refund certain advances he had made from the military chest, to the late receiver general, in his embarrassments in the years 1822 and 1823, to enable him to meet the expenses of the civil government, to the amount of thirty thousand pounds each year. These sums he observed, " advanced upon his

own responsibility, formed a special and prior claim upon the province, to be adjusted in the financial arrangements of this session." The subject was referred to the committee on the supply for their consideration. Here it was discussed with some asperity. The claim, finally, was disregarded by the assembly, which would consider the loan merely as a personal accommodation to the receiver general. When the sums in question had been advanced from the military chest to that functionary, there ought, by his accounts, to have been in the provincial chest upwards of ninety thousand pounds. It was said that with such a sum in his possession he ought not to have required aid; but that having required it, this was a tacit admission that he was already a defaulter, and therefore, instead of being aided, that an immediate removal would have been a more salutary course. Chap. XXIV. 1824.

The message of the president of the United States, on opening the congress this year, by which it appeared the american government, on the part of the nation, had claimed the free navigation of the St. Lawrence, from their territory bordering on that river, to the sea, caused some uneasiness in the Canadas. The legislative council addressed the governor on the subject, deprecating such a concession on the part of the British government, as contrary to the established and recognized law of nations in similar cases; stating that it would be dangerous with respect to the connection and

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dependence existing between these colonies and the parent state; and of a tendency to systematize contraband trade and evasion of the laws, and thus to destroy all hope of deriving efficient revenue from import duties. That it would be pernicious to british interests in various other respects, and beneficial in none, to these provinces, as parts of the british empire.

The legislative council, in this address, also represented that it was with great concern they observed the internal communication by the St. Lawrence, from Upper Canada to Lower Canada, was threatened with interruption, by reason of the award by the commissioners under the treaty of Ghent, of Barnhart's Island, above Cornwall, in the Upper Province, to the United States, whereby no practical channel of descent, for boats, rafts, or other conveyances by water was left on the british side of that river; and that consequently this communication seemed to be placed at the mercy of the States. The legislative council, therefore, besought the governor to submit these important points to the consideration of his Majesty's ministers, and earnestly to recommend that his Majesty might be advised not to concede to the United States, upon any terms, the navigation through the river St. Lawrence to sea. They also expressed their hope, that means might be taken to secure by negociation, the reciprocal right or exercise of navigation, during peace, of the several internal channels of the St. Lawrence, southward of the forty-fifth degree of north

latitude, in whatsoever territory those channels might be situate, in order to prevent those collisions which must otherwise take place, to the injury of both nations. Chap. XXIV. 1824.

The legislative council, by message to the assembly, requested the concurrence of this body in the address, which, however, they declined, an opinion prevailing there, that the dangers anticipated by the council were far over rated, while others thought, or feigned to think them, merely visionary.

The governor laid before the assembly at a late period of the session, certain resolutions of the assembly of Upper Canada, relating to losses sustained by inhabitants of that province during the last war, from pillage of their property and devastation of their estates, by the enemy. The british government had consented, that a loan towards indemnifying the sufferers to the amount of one hundred thousand pounds should be effected, and for which it would guarantee half the annual interest, (£2,500 per annum) the province providing for the remainder. This, Upper Canada, was of itself unable to effect, and its legislature, therefore, recurred to this province, in the hope that the legislature thereof would aid the former, by an imposition of new duties on imports at Quebec.

In these resolutions, in which both houses of the Upper Canada legislature had concurred, it was said that " Lower Canada, although a separate colony was distinctly identified with

Upper Canada in the issue of the late contest with the United States of America, and was, in a great measure, preserved from the dangers and devastations of war, by the successful resistance made to the enemy in Upper Canada, at so ruinous an expense to the fortunes of many of its inhabitants; and that an appeal might properly be made to the sympathy and justice of Lower Canada, to participate in the payment of the indemnity, to which the sufferers had so distinct a claim."

In answer to this application, it was resolved by the assembly "that inasmuch as Upper Canada made in the last war, the same meritorious efforts as Lower Canada, to repel the american invasion; and as all the disposable resources of both provinces were employed in resisting the urgent dangers which threatened them, this house sympathises with the legislature and people of Upper Canada, in the sufferings and ruin experienced in that province, as in this, by a large number of persons, but that the very unfavourable state of the commerce of this province, renders impossible for the present, the imposition of new taxes." The articles upon which it was proposed by Upper Canada to impose new duties, were, wines, refined sugar, muscovado sugar, and an *ad valorem* duty on merchandize. In the Upper Province, this answer was considered evasive and unsatisfactory.

The assembly addressed his Majesty in favour of the clergy and people of the establish-

ed church of Scotland, residing in the province, and of other protestants dissenting from the churches of England and Scotland.—"They conceived"—they said—"the true sense and meaning of the constitutional act in appropriating a reserve of the waste lands of the crown towards the support of a protestant clergy, equal to one-seventh of the lands to be hereafter granted in Canada, was, to give an equal right to the clergy of the established church of Scotland, to participate in common with that of the established church of England, in the advantages and revenues to arise from those resources." It was also said in the address, that—"if the ministers charged with the religious instruction of protestant dissenters, had not an equal right to participate in the revenues which those lands might produce, they had an equitable claim to that effect, in consideration of their utility, with respect to the religious instruction which it was just"—they observed—"to facilitate, to a class so numerous in this province as protestant dissenters from the established churches of England and Scotland, who, in consequence of a conscientious separation, justly authorized by the law ought not to be excluded from civil advantages nor from any act of royal munificence and protection which other classes of the king's subjects enjoyed." Chap. XXIV. 1824.

This address from the assembly, consisting chiefly of roman catholics, gave great offence to the clergy and members of the established

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church of England, who deemed it an improper interference in their concerns on the part of the assembly.

The Upper Province had claimed certain arrears of drawbacks, alleged to be due by Lower Canada upon importations into that Province during the late war, as already noticed, but of which no exact or proper entries at the custom house could be procured. This matter being provided for in the "Canada Trade Act," had been referred to arbitrators, who, in 1823, awarded the sum of £12,220 17s. 6d., currency, to Upper Canada. The governor, at an early period of the session, sent down a message, informing the assembly, that application had been made to him on the part of Upper Canada, for payment of this amount, but that the embarrassment of the financial affairs of the province had placed it out of his power to make payment, and he therefore submitted the subject to the assembly, that they might make provision accordingly.

This message caused much dissatisfaction in the assembly, being there considered as intended by the executive, to involve that body in a certain degree of responsibility for the failure of the receiver general, which they pretended rested wholly with the government.—Little or no notice of the message was taken until near the termination of the session, when it was resolved, "that the arbitrators having determined that the amount of the arrears due to Upper Canada was £12,220 17s. 6d., cur-

fency, and their decision being final, that sum had thenceforth ceased to form part of the disposable funds of this province, and ought to have been paid to Upper Canada, and not to have been retained towards paying the public officers up to the first of November last, six months of their salaries; and that by suspending the execution of the said act of the imperial parliament, his excellency the governor in chief has exposed this province to the misfortune of a renewal of the difficulties with Upper Canada."

By the "Canada Trade Act," it is, as previously mentioned, among other matters, provided that persons holding lands in this province, in *fief et seigneurie*, may, on surrendering the same to his Majesty, obtain regrants of them in free and common soccage, by paying a certain sum in consideration of the change of tenure and relinquishment by the king of the fines and other dues to his Majesty. The seignior, by this change of tenure, became, from a proprietor, as it were in trust, of the unimproved lands in his seigniory, the absolute owner thereof, with power to dispose of them as he pleased. This enactment, prompted by the liberality of the government at home, with a view to the gradual disenthralment of the province from the foedal tenure, was, however, but coolly received in it. By the ancient laws of the province, the seignior is bound (though practically this good law has been disregarded by most of the seigniors,) to

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concede the ungranted lands in his seigniory to applicants desirous of settling on them, and this, on the same conditions as were originally imposed on the first grants made in the seigniory, viz: on payment by the *censitaire*, (grantee) to him and his successors, of an annual ground rent, in perpetuity, of a *sol* or thereabout per arpent in superficie, with liability for *lods et ventes* or a twelfth of the amount of purchase money in all cases of sale. This commutation of tenure would subject the lands to a different set of laws altogether from those by which they were previously ruled: that of primogeniture, for instance, superseding those relating to descent and partitionment among coheirs. Those of the widow's dower also upon such lands would, it was said, be set aside by the change of tenure.*

The introduction of a new system of laws incidental to the tenure in free and common soccage, was distasteful. It was erroneously considered a scheme gradually to undermine and overthrow the old laws, for the maintenance of which, in their integrity, it was said the canadians of french origin, preferred the imaginary inconveniences of the old tenure, to the doubtful advantages of that proffered. The assembly took up the subject, and by resolution declared "that any arrangement which might be

* The departure of most, if not all the seigneurs in Canada, (the seminaries of Quebec and Montreal, the late order of jesuits, the religious communities of ladies, and other ecclesiastical corporations being honorable exceptions however) from the conditions on which the

made under the said act, between his Majesty and the holders of waste lands *en fief et seigneurie*, would deprive a third party of a legal

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crown of France granted the tracts, known in Canada, as seigniories, has been and is the cause of much discontent throughout the province, and very probably will, occasion at no distant period a reaction to the disadvantage of the seigniors. The views of the french government in making these grants to individuals capable of effecting settlements upon them were beneficent and wise, and calculated to promote immigration and the improvement of the colony. The settler could obtain, according to them, the concession or grant of a tract of 80 to 90 arpents, or acres of land, in any of those seigniories, on the mere condition of paying for it an annual "*redevance*" or acknowledgment to the seignior, rarely or never exceeding 6s. 8d., our money, and seldom so much, with certain other public obligations on the part of the grantee, in connection with his grant, by no means onerous, being as much for his own and the public good as the seignior's, the land, in addition to the annual "*redevance*" being, on every sale or mutation thereof equivalent to sale, liable to the mutation fine known as "*lods et ventes*," viz: a sum equal to a twelfth of the amount of purchase, and to be paid by the purchaser to the seignior, in addition to the purchase money paid by him to the vendor.—This, though a drawback upon improvement in cities or towns, where large investments are necessarily made in building for the purposes of trade and other improvements was, nevertheless, a wise provision, intended to prevent the forestalling or monopoly of lands by capitalists, to the prejudice of the agricultural classes, and upon the whole, perhaps, an excellent agrarian law, as many still consider it, if only the spirit in which it was conceived were followed up and duly enforced by law.

But the seigniors generally, with the above exceptions, have, it seems, disregarded the conditions annexed by the crown to the grants of their respective seigniories, as shewn by an inquiry before commissioners appointed by the government pursuant to an address of the assembly of Canada, in 1841, and their report thereupon. The seigniors, it appears, not only dispose of the unconceded lands in their seigniories, as if they were the absolute proprietors of them, by exacting from applicants for grants of land, previous to concession, large amounts in money, for the lots selected, but impose also such unreasonably heavy ground rents, or "*redevances*," in perpetuity, and contrary, it is believed, to law, (though the courts have held such contracts to be legal,) as actually amount to a serious grievance, at present and for years past the subject of much uneasiness and complaint. The legislature, it is expected however, will, before long, interpose its authority, and, with a due regard to the just rights of seignior and censitaire, make some provision on the subject that will put an end to the abuses, if not to the tenure.

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right which is beneficial to the individual—advantageous to the community, granted by the capitulations of the colony, and confirmed to it, by an act of the fourteenth year of the reign of his late Majesty." They, therefore, addressed the governor, praying "that in any conditions which may be imposed on any seignior surrendering lands under the said act, to obtain a grant thereof in free and common soccage, such conditions may be imposed on such seignior in conformity to the said act, as may preserve entire the right of the subject to a grant of such waste lands at the usual redevances or dues and conditions."

This was, in fact, a request that no change of tenure should be permitted. In answer to the request, his excellency said he would pay every attention to the subject, when any exchange of the seigneurial tenure should come under his consideration.

Among the final proceedings of the session, was a vote of thanks to Sir James M'Intosh, and other members of the parliament, who, as it was said, "influenced by a sense of justice, and attachment to the principles of the british constitution, succeeded in persuading his Majesty's ministers to relinquish their support of a bill introduced in the house of commons in 1822, for altering the established constitution of the Canadas, until such time as the inhabitants of the province could have an opportunity of making known their sentiments thereon."

The governor prorogued the legislature on the ninth March, with the following speech, from which the reader will clearly collect the points at issue.



"Gentlemen of the legislative council, gentlemen of the assembly,—I am now to close a session of the provincial parliament, the result of which I am much afraid will prove to be of little public advantage; at the same time your long and laborious attendance is entitled to my best thanks; but before I prorogue this parliament, I think it important to the country that I should here, as his Majesty's representative, express my sentiments upon the general result of your proceedings during the several sessions in which I have met you: I declare those sentiments in an earnest desire to attract the serious attention of every member of this parliament, of every man who values the prosperity of Canada, and I trust I know too well the principles of the british constitution, to express myself in any manner inconsistent with that respect which one branch of the legislature owes to another, or with those rights and privileges which belong to each respectively.

"A claim has been made to an unlimited right in one branch of the legislature, to appropriate the whole revenue of the province according to its pleasure, including not only that part of it heretofore granted to his Majesty, and which is appropriated by acts of the provincial parliament to specific purposes, and subject to such distribution as the king may see fit, but even that portion also of the revenue which is raised by the authority of the imperial parliament, appropriated to defray the expenses of the administration of justice and of his Majesty's civil government in this province, and directed by an act passed in the British parliament, long before the establishment of the present constitution in this province, to be so applied, under the authority of the lords commissioners of his Majesty's treasury; this claim, made by one, has been formally denied by the other two branches of the provincial parliament; nevertheless it has been persisted in, and recourse has been had to the unusual proceeding of withholding the supplies, except upon conditions

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which would amount to an acknowledgmen of its constitutional validity.

"This subject has occupied every session from the first to the last, and is now transmitted to those which shall follow. It has caused incalculable mischief to the province; and now leaves it to struggle under difficulties, while every inhabitant of it must see that the encouraging aid of the legislature is alone wanting to arouse powerful exertions and draw forth those resources, which, without that aid must, in a great measure, be dormant and useless within its reach. But, gentlemen, I see with infinite satisfaction, that notwithstanding these unfavorable circumstances, Canada is powerfully advancing in improvement, and that the differences which continue to disturb the legislature, have not interrupted, in the smallest degree, that general contentment which the people enjoy under the paternal care and protection of his Majesty.

"In former years, when the supplies necessary for the support of his Majesty's government and the honor of his crown in this province, were not granted, I averted the unhappy consequences which must have resulted from a strict adherence to the letter of the law; and I trust that my conduct, on these occasions, will be justified and approved, where alone I am responsible: but as my advice has been unavailing to prevent this result at the present period, I shall interfere no further; adhering now to the letter of the law, I shall guide the measures of the executive government by that rule, and according to my best judgment, lamenting that the public must feel those consequences which have so long impended over it, and which I can no longer avert.

"Gentlemen of the legislative council,—I feel myself called upon to acknowledge the calm, firm and dignified character of your deliberations and conduct in the discussion of the public business, and I take it upon me, in a sense of duty, to thank you in his Majesty's name, for the support you have uniformly given to the measures I have from time to time recommended to you for the good of the province.

"I fervently pray that the wisdom of your proceedings may make a just impression upon the loyal inhabitants of the province, and lead them to that temperate and conciliating disposition which is always best calculated to give energy to

public spirit, to promote public harmony, and ensure public happiness; these are the great advantages which result from a wise exercise of the powers and privileges of parliament." Chap. XXIV. 1824.

The encomiums passed on the conduct of the legislative council, were offensive to the members of the other house, as indirect censure upon it. Thus, the assembly and the governor parted, without having made the least progress during the four years of this parliament, towards an adjustment of the difficulties in which it was involved when his lordship assumed the government. These had even multiplied, and parties seemed to be still further from a good understanding than at any previous period since the introduction of the subject from which they had chiefly sprung.

The dissolutions which had taken place during former administrations, had been held up as obstacles to the adjustment of difficulties between the executive and the assembly. This pretext was, however, now totally wanting, the present governor having, from first to last of this parliament, evinced the fullest forbearance and moderation towards the assembly.

The formation of "The Literary and Historical Society of Quebec," took place this year originating in the patriotic feeling, and anxiety for the honor and the welfare of the province, which characterised the Earl of Dalhousie, its noble founder and patron. The purposes of the society were, by an address to the public, issued shortly after its institution, declared to be the "investigation of points of history

immediately connected with the Canadas—To discover and rescue from the unsparing hand of time the records which yet remain of the earliest history of Canada—To preserve, while in our power, such documents as may be found amid the dust of yet unexplored depositaries, and which may prove important to general history and to the particular history of this province."—Men of learning and taste were invited to join the society, which concluded the address issued on the occasion, by soliciting "the assistance and co-operation of a liberal and enlightened public in the prosecution of a cause, which, in so many ways, conduced to the advancement of historical knowledge, and consequently to the honor and ornament of this province." This important society subsists, but in a lingering state, not having met with the general and steady support which an institution so valuable to the country, its history and literature has a right to expect.*

* At a meeting of the society, held at the Castle of St. Lewis, on Monday the 15th March, 1824, a set of by-laws was agreed upon, and the following officers (the first of the institution) were named:—

Founder and Patron—His Excellency the Right Honorable George, Earl of Dalhousie, G. C. B., &c. &c. &c.

President—His Excellency the Honorable Sir Francis Nathaniel Burton, K. C. G.

Vice Presidents—The Honorable Chief Justice Sewell—Valliéres de St. Real, Esq.

Recording Secretary—William Green, Esq.

Treasurer and Corresponding Secretary—John Charlton Fisher, Esq. L. L. D.

The society was incorporated by royal charter of 5th October, 1831.—The officers of it, for that year, were:—

President, His Honor the Chief Justice of the Province.—1st. Vice President, William Sheppard, Esquire.—2d. do. Honorable

Lord Dalhousie sailed for England with his family on the 6th of June, receiving, previous to his embarkation addresses from Montreal and Quebec, numerously signed, expressive of the respect of the inhabitants for his excellency's public and private character, regret at his departure, and of their hopes of his speedy return. The government, during his absence devolved upon the lieutenant governor, Sir Francis N. Burton. Chap. XXIV. 1824.

Although much towards public improvement had been done during the four years which had elapsed of this administration, much also of what had been particularly recommended by the governor, had been left undone. Besides those topics embraced in his speeches to the legislature, others of major importance were, from time to time, brought under notice by message.

He recommended, in the first session, a revision of the road laws, and in connection with this subject, the establishment of an office of grand voyer for the province, in whom the superintendence of all general improvements by the opening of new highways throughout the province, and controul of the expenditure of all public monies on roads, or internal com-

Sir John Caldwell, Bart:—3d. do. Andrew Stuart, Esquire, M. P. P. —4th, do. Hon. A. W. Cochran—Recording Secretary, William Henderson, Esquire,—Corresponding Secretary, J. Wurtele, Esquire, M. P. P.—Treasurer, Archibald Campbell, Esquire,—Librarian, J. Morrin, M. D.—Council Secretary, W. Lyons, M. D.—Chairman of the Class of Literature, John C. Fisher, L. L. D.—Of the Class of Natural History, W. Kelly, M. D. R. N.—Of the Class of Science, T. Lloyd, M. D.—and of the Class of Arts, the Reverend Mr. Holmes.

munications should centre. The decayed state of the castle of St. Lewis, the residence of the governor general, was brought under consideration; as, also, the expedience of providing a suitable house for the accommodation of the public offices, immediately connected with the civil government. He further recommended, in the same session, as a matter that concerned both the honor of the country and the dignity of its parliament, that steps should be taken with a view to erect, in the course of future years, a public building for the seat of the legislature, suited to the circumstances and corresponding with the rank which this province holds among the sister provinces of his Majesty's North American dominions.

In the session of 1823, he also, as previously mentioned, recommended the enactment of a law for the public registry of instruments conveying, charging, or affecting real property, with a view to give greater security to the possession and transfer of such property, and to commercial transactions in general.

The possession of large tracts of township lands by absentees, and owners who had made no improvements on them, and who in no wise contributed towards opening the roads of communication which gave value to their lands—a burden which fell chiefly on the settler, and resident landowner,—had long been deemed a grievance, that essentially retarded the progress of the townships. The governor, anxiously desired to remove this, and accordingly,

at the late session, sent a message to the assembly, recommending an enactment for the escheat and forfeiture to the crown of the large tracts held under letters patent, in the townships, on which, in disregard of the conditions of grant, no improvements were made. He also, this session, recommended measures, by which he might be enabled to cause an inspection to be made into the state of the divisions and battalions of militia, principally with a view to check abuses which had grown into practice in the appointments and promotion of militia officers. These, however, as well as other measures of importance which he recommended to the legislature, were all disregarded. Chap. XXIV. 1824.

The views which the earl of Dalhousie entertained of his own administration, so far, of the government of the province, may be understood by the following extract from his answer to the address presented to him by the principal inhabitants of Quebec, previous to his embarkation for England:—

"I do feel, and I will candidly and publicly say it, that I have not succeeded to the extent of my hopes in promoting the welfare of this country, but neither have I much cause to complain; I am as yet content with what all acknowledge to be true, that the province has improved greatly within the last few years, notwithstanding the untoward circumstances which have occurred—my hopes are not cast down—my earnest endeavours shall not relax—the general welfare of the people shall still be the grand object of my constant attention and determined perseverance;—and I trust that while in England, as here amongst you, I shall not disappoint your expectations."

# CHAPTER XXV.

General election—lieut. governor visits Montreal—meeting of the new parliament—speech—miscellaneous proceedings—Mr. attorney general Uniacke raised to the bench—Mr. James Stuart attorney general in his stead—Estimates for the year sent down to the assembly in a shape different from those of the previous year—approved and bill passed accordingly with some reductions—passed by legislative council—protest against it by Mr. Richardson—remarks—address relating to the defalcation of Mr. Caldwell—prorogation—decease of the right reverend Jacob Mountain, D. D., first lord bishop of Quebec—return of the earl of Dalhousie from England, and reassumption of the government—relief afforded by him to sufferers from the great fires on the Miramichi, New Brunswick—decease of Monseigneur Plessis, roman catholic bishop of Quebec—custom-house fees discontinued—parliament meets—speech—message relating to the independence of the judges—and to Mr. Caldwell—estimates sent down—proceedings thereupon—address relating to jesuits' estates in and near Quebec—answer—address concerning change of tenure—answer—address to the king relating to civil list—expedience of an agent reconsidered—governor's message upon the subject—census and return of the population—award under "Trade Act" of share of revenue to Upper Canada—varieties—prorogation.

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Sir Francis N. Burton had been long enough in Lower Canada to become personally acquainted with most of those actively concerned in public affairs.

The general election took place in July and August; but, although several new members

were returned, it was apparent that the influence of the party, termed anti-ministerial, had rather increased, than otherwise, by the change.* The lieut. governor visited Montreal and the



* Members returned to this, the 12th parliament of L. Canada.

Upper Town of Quebec, Jos. Remi Vallières de St. Réal and Andrew Stuart; Lower Town of Quebec, Jean Belanger and Thomas Ainslie Young; County of Quebec, John Neilson and Michel Clouet; County of Cornwallis, Joseph Levasseur Borgia and Joseph Robitaille; County of Devon, Joseph Couillard Desprès and Jean Bte. Fortin; County of Dorchester, John Davidson and Louis Lagueux; County of Hertford, François Blanchet and Nicolas Boissonnault; County of Hampshire, François Drolet and John Cannon; County of Northumberland, Marc Paschal De Salles Laterrière and John Fraser: County of Orleans, François Quirouet; Borough of Three Rivers, Amable Berthelot and Etienne Renvoyzé; County of St. Maurice, Pierre Bureau and Charles Caron; County of Buckinhamshire, Louis Bourdages and Jean Baptiste Proulx; East Ward of Montreal, Hughes Heney and James Leslie; West Ward of Montreal, Louis J. Papineau and Pierre De Rocheblave; County of Montreal, Joseph Valois and Joseph Perrault; County of Bedford, Jean Baptiste Réné Hertel de Rouville; County of Effingham, Casimir De Montigny and Joseph Ovide Turgeon; County of Huntingdon, Austin Cuvillier and Jean Moyse Raymond; County of Kent, Denis B. Viger and Frederic Auguste Quesnel; County of Leinster, Charles Courteau and Jean Marie Rochon; County of Richelieu, Roch de St. Ours and Jean Dessaulles; County of Surrey, Pierre Amiot and Aimé Massue; County of Warwick, Jacques Deligny and Louis M. Raphael Barbier; County of York, L. Dumont and John Simpson; Borough of William Henry, Norman Fitzgerald Uniacke; County of Gaspé, Jean Thomas Taschereau.

The legislative council, and its officers at this time, consisted of the following gentlemen:—

The hon. Jonathan Sewell, chief justice of Lower Canada, Speaker.
Right revd. Jacob, lord bishop of Quebec.

Sir George Pownall, kt; James Monk, Sir John Johnston, bart.; Charles De St. Ours, John Hale, A. L. J. Duchesnay, John Richardson, John Caldwell, H. W. Ryland, Jas. Cuthbert, Chs. Wm. Grant, W. McGillivray, Pre. D. Debartzch, Rt. Revd. J. O. Plessis, R. C. Bishop of Quebec, James Irvine, M. H. Perceval, Olivier Perrault, Louis De Salaberry, Wm. Burns, Thomas Coffin, T. P. J. Taschereau, Rodk. Mackenzie, L. R, C. De Léry, Louis Turgeon, Lewis Gugy, Charles De Salaberry, James Kerr, Edw. Bowen, W. B. Felton, Matthew Bell, Toussaint Pothier.

Of these gentlemen the only survivors at this day (October, 1848) are Messrs. Cuthbert, Bowen and Bell.

William Smith, esq., clerk of the parliament; Chas. Et. De Léry, esq., clerk assistant; Andrew Wm. Cochran, esq., law clerk; Jacq.

Chap. XXV. 1824.

upper parts of the province in August, and was received with every mark of cordiality by the inhabitants. The citizens of Montreal entertained him at a public dinner, and before leaving the city he performed the ceremony of laying the corner stone of the new roman catholic parish church at Montreal, said to be the largest edifice of the kind in North America.*

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Voyer, esq., clerk of the journals; C. R. D'Estimauville, esq., gent. usher of the black rod; Mr. Wm. Ginger, serjeant at arms.

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The following constituted the executive council, at the same period:

The honorable the Chief Justice Sewell.

The rt. revd. Jacob, lord bishop of Quebec.

James Monk, John Richardson,—A. L. J. Duchesnay, James Kerr, M. H. Perceval, Olivier Perrault, Wm. B. Coltman, William Smith, L. J. Papineau.

Hon. H. W. Ryland, registrar and clerk; George H. Ryland, esq., assistant clerk; hon. Edward Bowen, french translator and secy.

* Among the miscellaneous events of the present year deserving of notice, is the fact, that the largest ship ever built (unless we credit the tales of antiquity) and certainly the largest that ever crossed the atlantic ocean, was launched on the 28th July 1824, at the Island of Orleans, near the western point, at the distance of a league and a half from Quebec. It was flat bottomed, and every way after the model of a canadian *Batteau*, and built by a Mr. Wood, of Glasgow, for a company in Scotland, and named the Columbus. The purpose of this Leviathan Batteau puzzled for a time the natives, who imagined some deep speculation at bottom. It, however, turned out unprofitably. This vessel took in a load of timber and sailed for England, which she reached, but on her passage out to St. John, New Brunswick, became, in a gale of wind water-logged, and was in consequence abandoned at sea. Her length was 301 feet 6 inches—breadth 50 feet 7 inches—and depth 29 feet 4 inches, and of 3,690 32-94 tons burthen. She was fitted out with four masts. In sailing down the St. Lawrence, on her homeward voyage, after the Hercules, steam tow-boat, which had towed her down as far as Bic had left her, she ran aground at the Betsiamitis shoals, but upon throwing over a considerable quantity of her cargo, she floated off without injury, and proceeded on her voyage. Another, the Baron Renfrew, on a similar model, and of rather larger dimensions, was shortly after the launch of this one laid down at the same place and launched the ensuing year. She also reached England, but stranding on the coast, was, after a short time floated off, and blown over on the coast of France, where she was totally lost, but the cargo, consisting of timber, was saved. No further attempt to build vessels on a similar plan has since been attempted in this Province.

The salaries due to the officers denominated *local*, which for want of an act of appropriation last session, the governor in chief had not thought proper to pay on his own responsibility, were now discharged by the lieutenant governor, who took it upon himself, trusting to the assembly for indemnity, to pay them in full, notwithstanding the vote of reduction, the preceding session, of one fourth upon every salary throughout the civil list.

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The legislature met on the 8th January, 1825. Much interest had arisen with respect to the choice of speaker, which several imagined would fall on Mr. Vallières. He was, however, when it came to the trial held but light compared to Mr. Papineau ; only twelve voting for him, and thirty-two for the latter.

The lieut. governor after stating that the administration of the government had devolved upon him in consequence of the absence of his excellency the governor in chief, informed the house of assembly,—

" That he would with as little delay as possible, cause to be laid before them, an account of the provincial revenue of the crown, and of the expenditure of the civil establishment during the last year, accompanied by such statements and returns as would enable them to judge of the resources of this rising colony, and of the means it possessed to provide for the civil expenditure of the provincial government, and to promote internal improvement, without the imposition of duties upon its commerce or its industry to an extent that could be felt as a burthen by its inhabitants.

" Gentlemen of the legislative council,—" Gentlemen of the house of assembly,—" Persuaded "—said his excellency,—" as I am of your devotion to the best of sovereigns,

Chap. XXV. 1825. and of your earnest desire to promote the general welfare of your fellow subjects, for whom you are called to legislate, I cannot but anticipate the most beneficial results from your proceedings.

"Although entering for the first time on the administration of the government, I have resided long enough in the province to become personally acquainted with most of you, and it affords me the highest gratification to declare that I have not in any part of the king's dominions, remarked a firmer attachment to his Majesty's person and government than I have observed in you individually; I have therefore the best ground to rely upon your collective exertions. I trust gentlemen that you will cordially unite for the purpose of doing away any difficulties which may heretofore have arisen, and for preventing, by an amicable arrangement of the financial concerns of this province, the recurrence of such difficulties in future.

The speech savoured, it was thought, a little too much of adulation, and as some said, of "blarney", but it was well received by the assembly; and an advantageous result from the labors of the session was generally anticipated.

A bill was passed during the session by the assembly for the appointment of an agent in the United Kingdom, but did not receive the sanction of the legislative council. Messieurs Papineau and Neilson laid before the assembly copy of a letter which, while in England with the petitions against the proposed union of the Canadas they had addressed to the under secretary of state for the colonial department R. Wilmot, esqr. "We have," said they, in this document, too voluminous for insertion here—"heard indeed in the colonies, motives alleged for changes in the constitution of Lower

Canada, but as they bear the character of party, of prejudice, and even hatred of the inhabitants of that province, they never can be supposed to influence the british government. There, appeals have been made to the right of conquest against a people who have been for two generations native born british subjects; foreign attachments and feelings have been asserted to those who have twice voluntarily hazarded their lives and fortunes to preserve their allegiance to the british crown. No calumny, no misrepresentation has been spared against those who have uniformly walked in the path of honor and of duty, and who, if they were unfortunately torn from that allegiance which connects them with the british empire, could not fail to perceive that natives and inhabitants of North America, they would partake in its fortunes."—



Mr. Uniacke, representing the borough of William Henry, and his Majesty's attorney general for the province, was in the course of the session, removed from his situation and promoted, much against his wish, to the bench, to make room for Mr. James Stuart, who as previously mentioned had taken an active part towards promoting the intended union, and was now in England for the purpose. The lieutenant governor informed the house by message of Mr. Uniacke's translation to the bench pursuant to which his seat was accordingly vacated. Mr. Stuart succeeded him as representative for William Henry.

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The independence of the judges occupied the attention of the assembly, and in connection with the subject, they again took into consideration the expedience of establishing a tribunal "to adjudge the impeachments which might be brought by the assembly of the province against public functionaries," and it was accordingly resolved by the house "that this tribunal be the legislative council in conformity to the despatch of the right honorable Earl Bathurst, to his excellency Sir John Coape Sherbrooke, governor in chief of this province, dated the 7th July, 1817." It was also resolved "that for the more upright and impartial administration of justice, it is expedient to render the judges of his Majesty's court of king's bench and provincial courts, more independent than heretofore, by incapacitating the said judges from seats in the executive and legislative councils, and disqualifying such as now have seats therein from sitting or voting in such councils." For these purposes it was resolved "expedient to secure by law to the said judges, their respective offices during good behaviour in the same manner as those offices are secured in England,"—and finally, that it "will be expedient for the purposes aforesaid, to secure adequate permanent salaries to the said judges, on their being prevented from holding any other office of profit or emolument under the crown." Nothing conclusive however was done on the subject.

The assembly before the estimate came

down, addressed the lieutenant governor, Chap. XXV. 1825.
" praying his excellency would be pleased to
" cause to be laid before the house, a copy of
" the despatches, or such part thereof as con-
" tains the commands of his royal highness
" the Prince Regent, now his most gracious
" Majesty, to his excellency Sir John C.
" Sherbrooke, heretofore governor in chief, to
" call upon the provincial legislature to vote
" the sums necessary for the ordinary annual
" expenditure of the province, as signified to
" both houses of the legislature of this pro-
" vince, on opening the session of the pro-
" vincial parliament, on the seventh day of
" January, one thousand eight hundred and
" eighteen."

To this application the lieutenant governor, verbally replied to the messengers, that he would send an answer by message. Accordingly, in a few days afterwards, his excellency informed the house by message, that he regretted, the despatch alluded to being strictly confidential, he could not consider himself at liberty to make any further communication, than was at the time, made by the then governor in chief.*

The lieutenant governor sent down the estimate of the expenses of the civil government for the current year, in a shape different from that of the former sessions, the distinction between the permanent and local classes of officers

* The despatch alluded to, is probably that of Earl Bathurst, dated 31st Aug., 1817—see note in vol. 2nd, page 296.

being omitted. The funds previously by law appropriated towards the support of the civil government, were estimated at £40,545 15 10 currency, and an aid of £31,456 6 currency, was called for, as necessary to cover the current expenditure of the year; a deficiency for which his excellency said he relied upon the zeal and loyalty of the assembly to provide.

The form in which the estimate was submitted to the assembly was satisfactory, as it seemed to be a relinquishment of the distinction that had been set up between permanent and local offices as previously mentioned, and an admission that the controul over the appropriated fund was now conceded to the assembly, a point which all along they had in view. There was, however, a misunderstanding between the parties, nothing having been further from the intention of the lieutenant governor (as appears by his despatch to the minister on the subject) than to relinquish or compromise the exclusive right of the government to apply to its legitimate purpose the appropriated fund, by law vested in the crown towards the support of the civil government.

The assembly, before entering upon the estimate, resolved upon an address, praying, his excellency would "be pleased to cause to be laid before this house, copies of such parts of the despatches from his majesty's ministers as contain the royal commands, to call upon the house to make a proper and permanent provision for the necessary expenses of the civil

government of this province, as communicated by his excellency the governor in chief, in his speech to both houses of the legislature, on opening the session of the provincial parliament, on the 16th day of december, 1820 ; and the further recommendation of his majesty, that such provision as may appear necessary for that purpose, should be granted permanently during his majesty's life, as communicated by his excellency the governor in chief in his speech to both houses of the Legislature on opening the session of the provincial Parliament, on the 11th December, 1821 ; and of such other royal instructions, relative thereto, as may have been received by his majesty's government in this province."



The assembly, at the same time, presented another address, praying his excellency would " be pleased to cause to be laid before the house, such communication as may have been received from his majesty's ministers, on the subject of the humble address of this house, to his majesty, of the 21st January 1822, relative to the demand of a permanent civil list, during his majesty's life."

The lieutenant governor, sent a few days afterwards a message to the assembly, expressing his " regret that he had to state, in answer to these addresses, that after the most diligent search, no instructions containing the royal command, to call upon the house of Assembly to make a proper and permanent provision for the necessary expenses of the civil government,

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was to be found in the office of the governor's secretary, and that he was consequently led to conclude that the despatch containing such instructions, had been carried home by his excellency the governor in chief, with other papers likely to be useful in any deliberation with his Majesty's ministers, respecting the government of this province."

He further informed the house "that no answer could be traced to the address of the assembly, to his Majesty of the 21st January, 1822, relative to the demand of a permanent civil list, during his Majesty's life."

From these answers it was inferred, erroneously there is cause to believe, that the call by the governor in chief for a permanent appropriation in aid of the funds for the support of the civil government of the province, was unauthorised by the minister. The classification of offices into permanent and local was attributed also to the partiality of the provincial government with a view to favor a few of the public functionaries at the expense of the rest.

The assembly on going into the subject of the supply called for by the lieutenant governor, went regularly through the whole civil list, in order to fix by vote the application of the appropriated monies, before entering upon the vote in aid of them. Certain offices which it was intended to abolish were wholly passed over, in order that not being included in the

votes for the year, they might thereby be understood as suppressed.* Chap. XXV. 1825.

Of the sum estimated as the expense for the year the assembly voted £58,074 2 11 sterg.

Although the assembly had thought it necessary to make reductions upon the estimate submitted to them they were extremely desirous of so framing the bill as to cover their own pretensions, without seeming to intrench upon the rights of the crown over the appropriated revenue.

The matter was one of rather difficult adjustment, and much attention from a very early period of the session was bestowed upon it. Several bills on the subject, were prepared, and privately submitted to members of the assembly, in the confidence of the lieutenant governor. The one finally agreed upon, as best adapted to reconcile the conflicting opinions gave the supply, merely limiting the amount of the expenditure for the year, including the appropriated revenue to £58,074 stg, without making mention by items or chapters of the particular manner in which the amount was to be applied. It also admitted the existence of the previous appropriation by

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* Among the omissions were the following, vizt :—

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| Lieut. governor of Gaspé..... | £300 | 0 | 0 |
| Agent in London..... | 200 | 0 | 0 |
| French translator to government..... | 200 | 0 | 0 |
| Chairman board of audit..... | 400 | 0 | 0 |
| Secretary to the same..... | 182 | 10 | 0 |
| Advocate general..... | 200 | 0 | 0 |

This accounts for so much of the deficiency—the rest consisted of a small pension, and some inconsiderable offices, and contingencies.

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law.* The bill was in fact free of the apparent objections which had occasioned the loss of those formerly sent up to the legislative council, nor was any mention or allusion made in it to the reductions intended by the assembly. It was, however, insisted upon in debate in the assembly, that the executive were bound to look to the journals of that house and to be guided by its votes, in the application of the sum mentioned in the bill, and that a failure strictly to comply with these would be a sufficient and legitimate reason wholly to refuse a supply the ensuing year. No address upon the subject of the reductions intended, or with respect to the application of the sum voted for the year, was, however, sent to the lieutenant governor.

The bill being sent up to the legislative council, met with the concurrence of a great majority of that branch; two only, Richardson and Grant, voting against it. The former strongly expressed his dissatisfaction at the bill, de-

* The bill passed on the occasion, without specifying any of the conditions or restrictions which in some instances accompanied the votes, simply enacted (as it stands on the statute book.) "that in "addition to the revenue appropriated for defraying the expenses of "the administration of justice and for support of the civil government "of the province, there shall be supplied and paid from and out of "the unappropriated monies which now are, or hereafter may come "into the hands of the receiver general of the province for the time "being, such sum or sums as may be necessary to make up and "complete a sum not exceeding fifty eight thousand and seventy-four "pounds two shillings and eleven pence sterling, for the purpose of "defraying the expenses of the civil government of this province and "of the administration of justice therein, and the other expenses for "the said year, commencing the first day of November 1824, and "ending the thirty-first day of October 1825." The bill was formally disapproved by earl Bathurst, the colonial minister.

claring it pregnant with still greater mischief than any of those previously sent up to the legislative council on the same subject.* Chap. XXV. 1825.

The lieutenant governor seems to have imagined that all differences with respect to the civil list were settled by the bill, and to have understood the assembly as distinctly conceding the point which they formerly had set up with respect to the application and controul of the funds, previously appropriated. But it was not so considered by the minister, who censured Sir Francis Burton for sanctioning the bill, a censure he afterwards withdrew,

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* Mr. Richardson entered his protest against the bill as follows, "*Dissentit.*

"Because the practice of the Commons of the United Kingdom should be followed respecting supplies, which is to fix the amount of the civil list, at the commencement of each reign, and then to grant the same for and during the life of the sovereign, the surplus only, of the public expenditure being granted annually.—A system is thereby established which conduces to stability, harmony and public confidence.

"Because the power of granting or withholding supplies, should not be capriciously exercised, nor with a view to the acquisition by the popular branch of the legislature of undue influence; else it would become a source of corruption, and destroy the constitutional balance established between the several branches thereof, which is essential to their salutary independence.

"Because the assembly have not fixed the amount of a civil list, nor made any grant for the life his Majesty; but on the contrary, by voting annually the supply towards the civil expenditure, after an annual discussion of the amount of the salary of each public officer, and claiming the right of then striking out or curtailing the same at their pleasure, (as has been done with many this year) the whole amounts to a periodical exercise of despotic authority, which must transfer to that branch of the legislature, the substantial power of the provincial government; by placing all the officers thereof, at the mercy of the assembly for the means of a precarious subsistence, destructive of fidelity, and whereby the constitution of this province, although monarchical in form, would become republican in practice."

(Signed) JOHN RICHARDSON.

Quebec, 21st March, 1825.

Chap. XXV. 1825. upon its being made apparent to him that the lieutenant governor was not cognizant of the despatches forwarded on the subject to the governor general, for his guidance in the matter.

Special instructions had been given by despatches from lord Bathurst to the governor in chief, earl Dalhousie of the 11th Septr. 1820, and 13th Septr. 1821, imposing upon him "the necessity of refusing all arrangements that went in any degree to compromise the integrity of the revenue known by the name of the permanent revenue." These despatches, which must have been those alluded to by the assembly, and which the lieutenant governor in answer to their address, said, were not to be found in the office of the governor's secretary, and that he was consequently led to conclude they had been carried home by the governor in chief, with other papers likely to be useful in any deliberation with his Majesty's ministers respecting the government of the province, had in fact as since understood, been taken home for that purpose.

The assembly, at an advanced period of the session, requested his excellency would lay before the house the substance of any answer he might have received to its address to his Majesty, in the last session, praying a reimbursement of the defalcation of the monies in the hands of the late receiver general; or any other information which he might have received of the determination of his Majesty's government relating thereto. In answer to this he informed

the assembly that he had not received any communication respecting their address; but that he had, however, by the last mail received directions to take the necessary steps for securing the debt due by the late receiver general, and that to this end orders had been given to the law officers of the crown. An humble address was voted to his Majesty praying he would be pleased to order that the estates of the late order of jesuits be applied, according to their original destination, to the instruction of the youth of the country, and that they should be placed at the disposal of the legislature of the province, for this purpose.



The business of the session being brought to a close, the legislature was prorogued on the 22d March. The speaker, Mr. Papineau, on presenting the bill of supply, and a bill to authorize a loan to complete the canal between Lachine and Montreal, addressed the lieutenant governor, at the bar of the legislative council, in terms complimentary to him, but reflective on the absent governor in chief, which many thought he had as well have avoided. His excellency having given the royal sanction to the bills passed during the session, in proroguing the legislature, thanked the assembly in his majesty's name, for the supply they had granted in aid of the funds already appropriated by law, for defraying the expenses of the civil government and the administration of justice.

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"It will"—he added—"be a pleasing part of my duty to convey to his majesty, as early as possible, the satisfactory intelligence, that by an amicable arrangement of the pecuniary concerns of the province, you have removed those difficulties, which, for several years successively, had disturbed the harmony it was so desirable to establish between the legislative bodies; and this event, I am persuaded, will tend in an eminent degree to draw closer the bond of union between this province and the parent state."

Several liberal appropriations were made this session by the assembly, towards the internal improvement of the province. The sum of fifteen hundred pounds was granted for encouraging the intercourse between Quebec and Halifax, to be given as a premium or reward to the first steam packet of not less than five hundred tons burthen, that should run regularly between those ports.* An act also was passed authorizing, for the first time since the establishment of the Constitution, an enumeration or census of the population of the province.

The result of the session gave general satisfaction, and it was hoped that the difficulties which heretofore had existed concerning the civil list, if not now completely at rest, would

* The Legislature of Nova Scotia, met this appropriation with a corresponding spirit, immediately voting £750 for the same purpose. These votes did not, however, produce the intended effect. A steamer (the Royal William) built at Quebec, ran in 1832 and 1833,

be of easy adjustment. It turned out, however, differently.

The administration of the lieutenant-governor terminated, on the return of the governor in chief, who arrived at Quebec, on the 16th September, in his Majesty's yacht Herald. In this ship, the lieutenant governor, having obtained his Majesty's leave, sailed for England on the 6th October, bearing with him the general good will of the province.

An extraordinary fire having taken place on the river Miramichi, in New Brunswick, during the night of the 7th October, by which an immense tract of forest, chiefly of pine, disappeared, the lives of many lumberers in the woods were lost, and the thriving little towns of Newcastle and Douglas, wholly destroyed, liberal subscriptions for the relief of the destitute and suffering inhabitants were made in Canada, and large supplies of provisions, clothing and necessaries forwarded from Quebec in vessels, for their relief, the governor advancing from the treasury, upon his own responsibility, £2243 for the purpose. This advance was cordially and unanimously approved of and made good by a vote of the assembly.* A

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between those ports, but the intercourse not being sufficient to repay the expense of running, she was discontinued.

* This is one of the most extraordinary fires on record, as well from its extent and the appalling suddenness with which it burst upon the inhabitants, a territory of several hundred square miles being at the same instant of time, but from what cause remains a mystery, covered with a sea of flame. It is thus described by an eye witness: "On the night of the 7th instant, (October 1825) this place (Miramichi) exhibited the terrific spectacle of a general conflagration.

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ship, moreover, was despatched by the government for Miramichi, loaded with provisions and clothing from the military stores of his

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The air, for the two preceding days, had been so intensely close as to excite suspicion of the existence of large fires in the woods, but no particular alarm was felt until about half-past seven, when a rumbling noise was heard to the north, which increased rapidly with pitchy darkness—there being at that time a dead calm. At 8 o'clock a few sparks and cinders were perceived, and a breeze from the north west led the inhabitants to suppose that the woods must suffer, but no idea was entertained of the horrible calamity which was impending. Suddenly, a dreadful hurricane poured down from the north side of the river, bringing with it immense masses of flames, cinders, ashes, and hot sand, and scouring the settlements with such amazing rapidity as to render it impossible to preserve any species of property. To describe the scene at this awful period, is beyond the power of language. The flames of such magnitude and so furious, seemed unlike the fires of this world. Wherever they grasped a building, instantaneous destruction was the consequence, and the shrieks of the flying inhabitants, the bellowing of the terrified oxen, horses, &c., the roaring of the flames, with the general illumination, presented a scene which cannot be imagined.

"The town of Newcastle, with all the surrounding settlements, became a total waste, excepting about fourteen buildings. Amongst those which were laid in ashes were the court-house, church, barracks and gaol, and for miles through the interior, where mercantile, farming, and timber business were carried on extensively, the greatest desolation took place.

"The remote settlements from the entrance of the river upwards, present to the eye the dreadful havoc of this most calamitous event, particularly those of the north-west branch, Baltebog and Nappan, some of which have scarcely a place of habitation left, and the lives which have been lost at those places are innumerable, the shores at almost every change of land, exhibiting dreadful spectacles of the burnt and drowned.

"In some parts of the country, the cattle have all been destroyed or have suffered greatly, and the very soil in some places has been consumed, and no provisions have been rescued from the flames, either at Newcastle, where almost every important mercantile establishment perished, or at Douglastown.

"The hurricane raged with such dreadful violence, that large bodies of ignited timber, as also trees from the forest, and parts of the flaming houses and stores were carried to the river with amazing velocity, and affected the water in such a manner as to occasion, in the shallow places, large quantities of salmon and other fish to resort to the land, hundreds of which are scattered on the shores of the north-west and south-west branches.

"Among the vessels in the river, (Miramichi) a number were cast

Majesty, to the value of six thousand pounds, towards relieving the distressed.

An action having been brought, in the name of his Majesty, for the recovery of the defalcation, by the receiver general, a judgment was rendered in the October term of the court of king's bench at Quebec, for £96,117, sterling, equal to £106,797, currency.

Among the occurrences of the present year, the death of the first protestant lord bishop of Quebec, the R. R. Jacob Mountain, D. D., who died on the 16th of June,* and that of

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ashore, three of which, namely, the Concord, Canada, and brig Jane, were consumed. Chatham at present contains about three hundred of the unfortunate sufferers, who have resorted to it for relief, and are experiencing some partial assistance, and almost every hour brings with it great numbers from the back settlements, burnt, wounded, or in the most abject state of distress, and nearly one hundred bodies have been already discovered.

"The heart sickens to see the widows, widowers and orphans without clothing, houses, or the means of subsistence, and it is impossible at this early period to say how many hundreds have been added to the dead, or have survived to know that a father, mother, sister or brother has been devoured by the flames, or perished by the waters: not only from the circumstance of numerous families in the back settlements not having yet been heard of, but also from the want of information regarding the fate of large lumbering parties in the interior of the woods, who, it is feared, have fallen victims to the flames."

* The memory of this highly gifted man and excellent prelate, the founder of the Established Church of England in Canada, and his labours are entitled to notice. The following are extracts from a memoir originally published in "*The Christian Remembrancer*," (a London periodical work), in September, 1825:—

"Died, on the 16th of June, at Marchmont, near Quebec, the seat of Col. Sir J. Harvey, Deputy Adjutant General in the Canadas, but in the absence of the proprietor, lately occupied by his lordship, the right rev. Jacob Mountain, D. D., lord bishop of Quebec. He was the first protestant prelate in the Canadas, where he presided over the church for thirty-two years, having died in the 76th year of his age.

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"The relations and friends, indeed, will always remember him with most reverential affection, and all who knew him with respect.

Chap. XXV. 1825. Monseigneur the R. R. Joseph Octave Plessis, roman catholic bishop, whose decease took place on the 4th December, both eminent prelates, are to be recorded. The same military

The poor will mourn him as a benefactor of no common generosity, and "the blessing of him that was ready to perish" will mix itself, to embalm his memory, with the surviving attachments of dependents, and the thankful recollections of many whom he has soothed in affliction, relieved in embarrassment, advised in perplexity, withheld from imprudence, reconciled in estrangement from their brethren, or led by the hand in the way of truth. Those who knew him in the public business of the province, will acknowledge no less his ready exercise of the powers of a mind both rarely gifted, and richly stored, than his integrity, his *droiture d'âme*, his singleness of purpose, his firmness and consistency of conduct; and those with whom he acted in concert will own, that there were times when others leaned upon him in difficulty, borrowed strength from his example, and counted upon him to preserve things in their proper course. His services upon some important occasions as a member both of the executive and legislative councils of the province, have been most handsomely acknowledged by his Majesty's representatives. In the former capacity he sat frequently in the court of appeals; and in whatever he undertook, was a faithful and laborious servant of the public and of the crown. He had lately, however, retired from all but professional occupation, and long before he wholly retired had a strong dislike to secular business. With regard to other points, he was eminently a scholar, a gentleman, a companion, a domestic guide and comforter; and united, in a most remarkable manner, qualities which commanded respect and even awe, with a cheerful ability, and often a playfulness, which threw a charm about his society, and made him, as it were, the centre of a system to the whole of which he imparted light and warmth. Besides the three learned languages which he had acquired in the course of his preparation for his profession, he was acquainted with as many modern foreign tongues:—in the fine arts, if he had been ordained to devote himself to such pursuits, he would decidedly have risen to great distinction; in all things he possessed a delicate and cultivated taste, and excelled, in early life, in many accomplishments, which he had discarded as trifles when he became a bishop in the church of Christ. Never, however, was a character more perfectly *genuine*; more absolutely elevated above all artifice or pretension; more thoroughly averse from all flourish or ostentation in religion, and for that reason, perhaps, his character was not by all parties fully appreciated, in the day in which his lot was cast. He was friendly, at the same time, both from feeling and principle, to all exterior gravity and decorum in sacred things; and in his own public performance of the functions proper to the episcopal office, the commanding dignity of his person, the impressive seriousness of his manner, and the felicitous propriety of his utterance, gave the utmost

honors, by a general order issued on the occasion, were paid on the interment of the latter, as had been paid to the obsequies of the former, lord Dalhousie, with his staff, attend- Chap. XXV. 1825.

effect and development to the beautiful services of the church. In the pulpit, it is perhaps not too much to say, that the advantage of his fine and venerable aspect—the grace, the force, the solemn fervor of his delivery,—the power and happy regulation of his tone,—the chaste expressiveness and natural significance of his action, combined with the strength and clearness of his reasoning—the unstudied magnificence of his language—and that piety, that rooted faith in his REDEEMER, which was, and showed itself to be, pregnant with the importance of its subject, and intent upon conveying the same feeling to others,—made him altogether a preacher, who has never, in modern times, been surpassed.

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The above accords perfectly with the author's recollections of the late bishop Mountain, as he believes it must with those of all still living, who ever heard from the pulpit this eminent preacher. Nothing that he can say of him in addition to the above could add to the accuracy and effect of the picture here drawn of his lordship, by, as it is generally understood, his son, the present worthy lord bishop of Montreal. The memoir adds :—

" He was much in the habit of destroying his own compositions,—and was accustomed to say, that his sermons were prepared only for delivery, and not adapted for publication. He never printed anything but two Charges, and a sermon or two upon particular occasions :—enough to leave it to be regretted that they were all.

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" His lordship was descended from a very respectable French protestant family, who took refuge in England, upon the revocation of the Edict of Nantz—(the name having originally been *Montaigne*,) and became possessed of a moderate landed property in the county of Norfolk. His father, at the time of the bishop's birth, resided upon his estate, at Thwaite Hall, in that county ; and, being much known and noticed for his agreeable and social qualities, which introduced him to a familiar intercourse with persons of a higher rank than his own, in some degree injured his property. He died about seventy-two years ago, while he was yet a young man ; and while the bishop, his younger son was yet an infant :—leaving his widow and four children with a sufficient independence, although far removed from wealth.

" The bishop received the first part of his education at a good grammar-school at Wyndham ; and was afterwards removed to Norwich, where his mother then resided. He was at first designed for business ; and, at the age of about fifteen, was placed for a time, with Mr. Poole, a merchant, then mayor of Norwich ;—but having an utter disinclination to such a pursuit, he quitted it to follow the course of his edu-

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ing the funeral. This mark of respect was appreciated by the roman catholic clergy, who, in an address of thanks to the governor feelingly acknowledged it, his lordship assur-

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cation, which was continued at Scarning, under Mr. Potter, the translator of the Greek tragedies, with whom he was a favourite pupil, till he went to Caius College, in the University of Cambridge, of which he afterwards became a fellow. He was well known at the University, and afterwards, to the late Mr. Pitt; and there can be no hesitation in saying, that he enjoyed the high esteem of many distinguished characters, both in the literary, political, and religious world at that day, with whom he had the good fortune to be much acquainted, especially with the present lord bishop of Winchester, whose unabated friendship he preserved to the day of his death.

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"It was in 1793, that his late Majesty, induced by the increase of protestant population in Canada, and especially in that part of it which had been recently constituted a separate province, under the name of Upper Canada, (which has continued almost entirely a protestant colony,) was pleased to erect the Canadas into a diocese according to the establishment of the church of England; provision having been made, by an act of the 31st of his late Majesty, for the maintenance of the clergy, as part of the same plan, by means of a reservation of one-seventh of all the lands at the disposal of the crown.

"Dr. Mountain having been appointed to this new diocese, arrived at Quebec on the 5th November, 1793. The charge upon which he entered did not present a very encouraging aspect. There were but six clergymen in the whole of Lower Canada; two of whom were placed at Quebec, and two at Montreal; and but three in the whole Upper Province. Five out of the nine were missionaries of the Society for the propagation of the Gospel; the remaining four were paid by government. The bishop was allowed to appoint a commissary (whose title was afterwards changed to that of official,) in each province. The station most remote from Quebec was Niagara, the distance being something more than 600 miles. At Quebec there was no church, no episcopal residence, no parsonage. The congregation of the church of England was accommodated with the use of the chapel belonging to the *Recollêt* monastery.

"The retired roman catholic bishop Briant, who was designated as the *ancien Eveque de Québec*, then an infirm, but venerable old man, upon being introduced to the new occupier of the protestant see, appeared unfeignedly rejoiced at his arrival, and, greeting him with the antiquated kiss on each cheek, declared that it was high time for such a measure, "to keep," he said, "your people in order." Mr. Hubert was in the actual exercise of the episcopal functions, with Mr. Bailli, as coadjutor.

"In the summer of the following year, the bishop performed his first visitation, inspecting the state of all the few infant church estab-

ing them in return that it was his desire, on the part of his Majesty's government in this province, to shew their church on all occasions the utmost respect and attention in his power.



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lishments which were scattered along the line of population, and holding confirmations at each. His visitations were repeated in the years 1800, 1803, 1809, 1810, 1813, 1816, 1820–1.

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"The manner in which these visitations are performed, affords a curious contrast with the performance of the same duty in England, where the bishops usually travel in their carriages and four, with all the best accommodation which a highly advanced state of society can afford. It is very right that they should do so; for it is the business of the christian priesthood, rather willingly to meet, than affectedly to court, difficulties and hardships; and it is unquestionable, that the marks of exterior difficulty are properly retained by the heads of an established religion. In this respect the bishop of Quebec always felt it to be his duty to deviate no otherwise from the usage at home, than as he was compelled by local circumstances to do so, and held it for a maxim, that his salary was given him, not for his private benefit, but as the means of usefulness, and as the instrument also of maintaining the dignity of his station: in fact, he never saved money in his life.

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"The cathedral church at Quebec (which is by far the best piece of architecture which the city can exhibit, perhaps may challenge comparison with any church in North America, and stands in a spacious area, inclosed by iron rails, with handsome gates,) was built by the bounty of his late Majesty, in consequence of the representations of the bishop, in the year 1804. It is not endowed with any funds, and was, for several years, in a mortifying state of neglect. It is still unprovided with any bells, but reason has been given to hope that this deficiency will be supplied. There is no Dean nor Chapter, nor any provision for daily service. There is, however, a fine organ, and a good choir, the expenses of which (as well as all the current expenses of the church) are defrayed from the pew-rents. The whole property of the cathedral is in the bishop, and it is provided, that the parish has the use of the church without prejudice to the episcopal rights, until a church shall be erected.

In the year 1806, the bishop being then in England, was visited by the honorable and reverend Charles Stewart, brother of the earl of Galloway, who then expressed his desire to be employed in the diocese, over which he has since been called himself to preside. This most remarkable and devoted man, whose habits of life, without any affected preciseness, were altogether primitive, proceeded, after the acceptance of his services, to a remote mission upon the borders of lake Champlain, and gave a new impulse to religion, and to the ad-

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The fees exacted at the custom-house, in Quebec, by the collector of customs and other subordinate officers, had long been a grievance to the trade, and exceedingly oppressive.—

vancement of the established church, in all that tract of country which is known by the name of the eastern townships of Lower Canada, where he has been greatly instrumental in the formation of new missions, and in the erection of several churches. During his subsequent visits to England, Dr. Stewart set on foot a subscription for building churches in the Canadas, and succeeded in raising a few thousand pounds for this purpose. The society also for the propagation of the Gospel placed at the disposal of the late bishop about £3000, (one £1000 of which was a legacy,) for the same object, and the fund was increased by a subscription to the amount of £400 in Quebec. * * * * * * *

"Many have been the difficulties, and many have been the discouragements, connected with the establishment of the church of England in the Canadas, during the time in which its affairs were conducted by bishop Mountain. To these may be added the perplexities which present themselves—the novel cases which arise, in applying to an infant country the rules which have grown up with ancient institutions—in deciding where it may be lawful and expedient to deviate—and in providing for the spiritual exigencies of the diocese, in its present state of destitution with regard to academical and other establishments. It was not a regular course of ecclesiastical functions, it was not a prescribed routine of duties, sheltered by precedents, and sustained by full authorities, that the bishop was called upon to discharge; but he was called upon to supply expedients, and to choose between difficulties; to direct the movement and to cover the weak points of a half-organized body of men, who had to struggle to maintain their ground. * * * * * *

"There are in the two Canadas sixty-one clergymen, forty-nine of whom are missionaries of this society, (society for propagating the Gospel,) either sent out to be placed at the disposal of the bishop, or appointed to the charge of congregations whose necessities he had represented, or else adopted at his recommendation, and ordained upon the spot. There is one visiting missionary for the whole diocese, whose duty it is to make circuits among the inhabitants who are most unprovided, and to afford them the occasional benefit of the word and ordinances of God. The bishop, who proposed this appointment to the society, was desirous that the task should be confided to the zeal of Dr. Stewart, (already mentioned,) and he accordingly undertook it, having previously filled two successive stationary missions—Besides these, there are in the Canadas, four chaplains to the forces, and one to the naval establishment at Kingston; but three of these are included in the foregoing statement, as performing duty also to civilian congregations. There are also several students for orders, preparing themselves under the direction of different cler-

They had been levied at this port at the rates established by the Halifax, (Nova Scotia) tariff of 1769, but were now by an order from home abolished and to cease with the present year, the officers being put upon increased fixed salaries, in lieu of all fees.*

The governor-in-chief opened the legislature, on the 21st January, with a speech of which the following are extracts:—

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—The provincial parliament has seldom met under circumstances more interesting to the country at large, or when contentment and happiness more generally prevailed in all parts of it.

"We see a people grateful for the blessings which providence has poured upon them, and sensible of the many advantages they enjoy under their laws. But it must at the same time be evident to us all, that the rapidly improving state of this province calls for new measures, calculated to give encouragement where a disposition to industry and enterprize is so manifest and so general.

"Gentlemen of the assembly,—I shall cause to be laid

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gymen, and the society makes a standing allowance of fifty pounds a year each, to four students in divinity, who form part of this number.

"The number of churches in the diocese, at the immediate station, or within the reach of a clergyman, either built or in progress, or fairly undertaken, may be stated at from twenty to twenty-five in each province. There are also about a dozen churches in the diocese, most of which are in the upper province, either built or undertaken, in *expectation* of a clergyman."

Such, in Canada, was the actual state and progress which, to this period, (1825) the church of England had made. The progress since that to the present (1849) has, it is presumed, corresponded to it.

* The number of vessels cleared from the port of Quebec this year, was 883, making in tonnage 227,707, and employing 9,684 men. Sixty-one new vessels (included in the above) had been built during the year, and gone to sea. The Lachine Canal was completed and in operation this year. It had cost £105,920. The nett tolls of the year (1825) after deducting expenses of collection were £1248.

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before you the accounts of revenue and expenditure in the last year, with a statement of the other incidental expenses of that period, the nature of which will be fully explained. I shall also direct the proper officers to lay before you the estimates of the probable revenue and expenditure of the current year. It will give me great satisfaction to find that the differences which have so long subsisted in the legislature, on financial matters, have been finally removed, leaving no difficulty now to prevent the grant of those supplies which it is my duty to ask in his Majesty's name, for the support of his government in this province.

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—Of the objects more immediately connected with the internal state of the province, which require your consideration, the most important are those which relate to the alteration and improvement of the system of judicature, and to the adoption of measures tending to afford better security to property. The want of register-offices has long been felt as a most serious evil. It has of late become destructive of confidence in the transfer of property; it must operate as a bar to the introduction of capital and to the purchase of land, and it is in many ways most hurtful to the improvement of the province.

"I trust you will seriously consider this evil, and again apply yourselves to devise a proper remedy.

"It must be obvious that the labours and details of government require to be assisted in proportion to the increase of the population, and to all the new circumstances of a young country, rapidly rising from infant powers to those of mature and vigorous strength. It is highly desirable that every county in its most remote parts, should feel that the laws can reach the evils existing, and afford protection, where the want of it at present checks the general improvement.

"I have formerly recommended to you, and still do strongly recommend a more accurate subdivision of the province into counties, townships and parishes, with a view to distribute the magistrates more equally, to regulate the militia better, and to enquire into, and, if possible, assist the local interests of each county and its minor subdivisions separately.

I scarcely need advert to the subject of education in this province. It has long occupied the public attention, and has acquired increasing interest by the increasing desire for its inestimable advantages; neither would I think it necessary to recommend continued support to the long established institutions of charity, were it not to bring under special consideration a better system for the care of the insane. Every feeling of humanity prompts us to compassion for these unhappy objects; and yet I regret to say that the systematic and proper treatment of them, with a view to their restoration to society, has not been sufficiently provided for in this province. Chap. xxv. 1826.

"In the course of the session, I shall call your attention to the state of the roads;—it is a subject most important to the improvement of the country, but requires more detail than can be given on this occasion.

"Among the laws which expire after this session, there are several of the highest consequence to the good government of this country; I trust they may be renewed and made permanent, for temporary measures in matters of such a nature, cannot but be prejudicial, where the existence of courts of law of any description, is made doubtful or uncertain.

"I recommend to you, gentlemen, with great earnestness the general interests of the province. If they shall be fostered by a wise system and a liberal policy, there cannot be a doubt that the progress of public improvement and prosperity will be greatly increased, affording the best and most gratifying proof that the public expectations and hopes have not been disappointed in the result of your labours in this session."

The address of the assembly, in answer, was as favorable as could be desired, and on its being presented, his excellency said, it was highly gratifying to him to find their sentiments so fully coincided with his, on the present state of the province. "From the assurances this address conveys, in terms so cordially express-

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ed,"—observed he,—" I cannot but anticipate the happiest result from our mutual labours for the public good." Never, however, was he more in error.

Shortly after the opening of the session, his excellency acquainted the assembly by message, that he had received a despatch from earl Bathurst, his Majesty's colonial minister, stating that he was prepared to recommend to his Majesty that the appointments of the judges in this province should be placed on the same footing on which corresponding appointments are placed in England, provided the legislature should make a provision for their retirement, according to the scale adopted in England. An address of thanks was voted his excellency for the above, but the matter, with the exception of some resolutions passed on the subject, advanced no further. An address had been sent up in the session of 1824, respecting a road between this province and New Brunswick, to which it was thought the Imperial government as well as the provinces ought to contribute, it being the route by which his Majesty's mail from and to England passed and repassed between Quebec and Halifax. His excellency now by message acquainted them that having while in England had communication with his Majesty's government relative to it, he was authorised to inform the legislature that, although the government could not hold out expectation of direct aid, by parliamentary grant for such purpose, it had n

objection to advance as a loan any sum of money that might be required, either for this object or any other undertaking of the like nature, in this or the neighbouring provinces of his Majesty's North American dominions, if the provincial legislatures would respectively and in their several just proportions, guarantee the payment of an interest of *three* per cent., on such advances, and provide a sinking fund for the gradual liquidation of the loan.

The governor also communicated the decision of the home government on certain of his despatches relative to the balance due by Mr. Caldwell to the crown, and to the proposals of that gentleman for the liquidation of the debt due by him to the public. The government, according to it, was of opinion that he should not be restored to his office of receiver general of Lower Canada.—That "the claim he professed to have on the provincial government, as a remuneration for his own and father's services, and which he estimated at £45,471, was altogether illusory, as the lords of the treasury could not conceive that the colonial legislature could be advised to admit any such claim." "The salary of £500, per annum, attached to the receiver general's office in Lower Canada, might," —he observed,—"be considered as an inadequate remuneration for the duties and responsibility of the situation, if there were no other profits or emoluments attached to

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it—and although their lordships are,"—he added—" of opinion that there are many objections to the system of permitting public officers to derive any part of the emoluments of their offices from the use of the public money in their hands, yet when such a system has been recognized, they do not see how an officer so circumstanced, can afterwards apply for remuneration in any other shape, particularly when, by mismanagement or speculation, he has wasted the property committed to his charge."

Mr. Caldwell had set up a pretension that the seigniory of Lauzon, which had been acquired by his father while receiver general was, by will, entailed upon him and his heirs, and upon this, valued by him it seems, at £105,500, he proposed giving a security for the balance due to the public, in the event of his being restored to office. On this subject it was remarked—" their lordships presume that this was the property referred to in the opinion of the law officers of the crown in Canada, and which was intended to have been entailed by Mr. Caldwell's father, after he had resigned the office of receiver general. It appears from that opinion that the said entail was informal, and that the property may be seized in liquidation of the debt due by the present receiver general. Their lordships suggest that the law officers of the crown should take all the measures necessary for setting aside the entail, not only on the ground of its informality, but also on

the ground adverted to in the answer to the third question put to the law officers of the crown, namely, that the balance due upon the late Mr. Caldwell's accounts, was not actually paid to the present Mr. Caldwell, but that the *quietus* was granted upon the present Mr. Caldwell's assuming such balance, and therefore, if the balance was not really in the chest at the time the present Mr. Caldwell succeeded to the office, nor was subsequently paid to him, a very considerable part of his present deficiency would have arisen from that circumstance, and as it is probable that such money was applied by the late Mr. Caldwell in the purchase or improvement of the property which he subsequently sought to entail so as to render it unavailable to the public towards the payment of any balance that might become due from his son, who had assumed and given credit to the farther for a sum which he did not actually receive, it therefore is but reasonable that this property should be made available to the public."

The letter quoted above was addressed, in the absence of lord Dalhousie, to the lieutenant governor Sir Francis Burton, (as mentioned before) who was also desired by it to take immediate steps for legally securing to the public the whole of Mr. Caldwell's property, and to set aside the entail in order to cover the deficiency due the public, at the same time to extend every reasonable indulgence as to

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the mode and time of bringing the property to sale.*

The governor sent down, on the 17th February, the estimates for the present year. The total supply required was £31,413, sterling, for which, in his Majesty's name, he called upon the legislature to provide. The appropriated revenue of the year, applicable to the civil expenditure, was estimated at £30,150, sterling.

It was now generally understood that the supply bill of the last session, accepted by Sir Francis Burton, had not proved satisfactory to the minister, lord Bathurst, but this was attributed to lord Dalhousie's influence while at home, and from the commencement of the session there was a settled determination among the members of the assembly not to pass a bill in any other shape, nor otherwise to provide for the support of the civil government than annually. Lord Dalhousie was in possession of despatches on the subject prohibiting its acceptance in that shape, and censuring Sir Francis Burton for having so accepted the supply, for 1825, for which, however, he was afterwards excused by the minister, on ascertaining that Sir Francis really was not in possession of the despatches by which his conduct with respect to the matter was to have

* It was not brought to to sale until 1845, when, pursuant to an Act passed for the purpose, the seigniory of Lauzon, six leagues in front, on the St, Lawrence, by as many in depth, was acquired by the government for £40,500, in part payment of the defalcation, and consequently is now public property.

been guided. This despatch lord Dalhousie did not, however, think proper, as well in delicacy to the lieutenant governor, Sir Francis Burton, as to avoid the appearance of interfering with the privileges of the assembly, to communicate to that body formally by message. He freely, nevertheless, imparted his instructions to the speaker, and other leading members individually, who, by that means, were put fully in possession of the views entertained on the subject by the government at home, by which he was to be guided, but of all which they made light.



The assembly, on going into committee on the supply, prefaced their votes by certain resolutions, of which those below are the most prominent* :—

The house then proceeded, in committee, to vote the civil expenditure, as usual, by items,

* "Resolved that the application of any sums of money already levied or which hereafter may be levied on his Majesty's subjects in this province, otherwise than such application is or may be directed to be made, by the express provisions of law, is a breach of the privileges of this house, and subversive of the government of this province, as established by law.

"That no law imposing duties or taxes on his Majesty's subjects in this province, providing funds for defraying the expenses of his Majesty's civil government, and those of the administration of justice or of the legislature in this province, can be held to confer upon any person the power, or the right of applying the monies thence arising, or making a special appropriation and distribution thereof, without the consent and authority of the legislature.

"That this house will hold personally responsible his Majesty's receiver general of this province, and every other person or persons concerned, for all monies levied on his Majesty's subjects in this province, which may have legally come into his or their hands and been paid over by him or them, under any authority whatsoever, unless such payments be or shall be authorised by an express provision of law."

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it being understood that the bill embodying the sum total voted should be in the same form as that of the previous session, viz: tendering a round sum, and for the year only, the assembly thereby exercising its assumed right of disposing, first, of the appropriated revenue of the crown, as far as it would go, the supply in aid of it, being to be made up from the unappropriated revenue.

The supply having been thus voted, a committee of seven members was named to draw up the bill as predetermined. Matters were now precisely at the stage when, sensible of the determination of a great majority of the assembly to introduce and insist on the bill as passed last session, the governor felt it necessary to lay before the house the despatch of the minister disapproving of it, and by which he was to be governed.

He accordingly acquainted the assembly by message, that he considered it his duty to lay before the house copies of two despatches from earl Bathurst, dated 24th November, 1824, and 4th June, 1825. "These despatches, addressed to his excellency sir Francis Burton, during the short absence of the governor in chief in England, convey the sentiments and the instructions"—said his lordship—"of his Majesty's government upon a subject which has long occupied the attention of the provincial parliament." "Anxious as the governor in chief has ever been to remove the cause of that difference of opinion which has, for years

past, attended the discussions of that particular subject, he obtained special permission to lay these papers before the house, and he now, in the most earnest manner, recommends them to their serious and deliberate attention."* Chap. XXV. 1826.

*The former of these despatches conveyed to the lieut.-governor the opinion of the law officers of the crown, as to the right of government to apply the proceeds of the revenue arising from the 14th Geo. III., ch. 88, which they held to be incontestible.—The latter is as follows:—

"DOWNING STREET, 4th June, 1825.

"Sir,—I have received your two despatches of the dates of the 24th and 30th March ultimo. In the first of these despatches you state that "you inform me with infinite satisfaction that the differences "which have so long subsisted between the legislative bodies on "financial matters, have been amicably settled, and that I shall per- "ceive by the draft of a bill which you enclose, that the assembly "have decidedly acknowledged the right of the crown to dispose of "the revenue arising out of the 14th Geo. III." &c.

"I regret to say that it is not in my power to consider this arrangement as in any degree satisfactory. The special instructions which had been given by his Majesty's command to the governor-general, in my despatches of the 11th Sept., 1820, and 13th September, 1821, had imposed on him the necessity of refusing all arrangements that went in any degree to compromise the integrity of the revenue known by the name of the permanent revenue; and it appears to me, on a careful examination of the measures which have been adopted. that they are at variance with those specified and positive instructions.

"The executive government had sent in an estimate in which no distinction was made between the expenditure chargeable upon the permanent revenue of the crown and that which remained to be provided for out of the revenues raised under colonial acts. In other words, had the whole revenue been raised under colonial acts there would have been no difference in the manner of sending in the estimates.

"The estimate was given at £65,000, sterling, of which the assembly appear to have voted £58,074, as "amount of votes," and £3,537, specially voted by Provincial acts; and they refuse to incur any expenditure for £3,390 for different items. Instead of the king's permanent revenue having certain fixed charges placed upon it, of which the assembly were made cognizant, the revenue was pledged, together with the colonial revenue, as the ways and means of providing for the expenses of the year. The assembly having calculated the amount of the permanent revenue and of the taxes received under colonial acts proceeded to vote, from the unappropriated revenues, "such sum or sums as might be necessary to make up and

The transmission of this message and despatches threw the assembly into a ferment, and a call of the house was ordered. The message and despatches were, in the mean time, referred to a committee of seven members, including the attorney general, to examine the same and report thereon.

An address was immediately voted to the governor, praying him to cause to be laid before the house, copies of such despatches as may have been received by the colonial go-

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"complete a sum not exceeding £58,074, sterling," and the extent of which must necessarily depend on the amount of the taxes received from the permanent revenue.

"The consequence of this arrangement is, that the permanent revenue will not be applied for the payment of such expenses as his Majesty may deem fit, but on the contrary, for the payment of whatever expenses the colonial legislature may think necessary, and the only money to be raised under the king's revenue being thus appropriated, no means remain for the liquidation of those expenses formerly carried on the king's revenue, and many of them specially authorized by his Majesty, which have been rejected by the assembly in this instance. The appropriation of the permanent revenue of the crown will always be laid by his Majesty's command before the house of assembly, as a document for their information and for the general regulation of their proceedings. They will therein see what services are already provided for by the crown, and what remains to be provided for by the legislature; and they will be thus assured that the proceeds of the revenue of the crown, (whether more or less, and from whatever source derived,) will exclusively and invariably be applied, under the discretion of the king's government, for the benefit of the province.

"With respect to items rejected by the assembly, I shall feel it my duty, after having given attention to each individual article, to give special instructions to the governor general on his return, to direct the payment of those which it may be thought expedient to continue.

"As the bill is limited to one year, I shall not think it necessary to recommend to his Majesty to disallow it, but confine myself to instructing his Majesty's representative in the province of Lower Canada, not to sanction any measure of a similar nature.

"I have, &c.,

(Signed) "BATHURST."

"Lieut.-governor Sir FRANCIS BURTON."

"A true copy, A. W. COCHRAN, secretary."

vernment, since the return of his excellency to the province, on the subject of such part of the administration of Sir Francis Burton, as related to the act of supply passed during the last session of the provincial parliament,—and another requesting him to lay before the house copies of the despatches of his Majesty's ministers to the governor in chief, of 11th September, 1820, and 13th Sept., 1821, referred to in the despatch of the 4th June, laid before the house this day by message.

To the former it was answered, that his excellency had not received any despatches from the secretary of state, subsequent to that communicated by message, in reference to the act of supply—to the latter, that his excellency regretted the despatches of the dates mentioned, were such that he could not consistently with his duty lay them before the house, without special authority so to do. These answers were referred to the committee appointed to examine and report upon the message and accompanying despatches.

The committee reported at considerable length upon the subject, but the report contained nothing of any interest. On a subsequent day, after the call of the house had taken place, it was, together with the despatches and answers as above, of his excellency, taken into consideration in committee of the whole, when several resolutions were adopted expressive of a determination to persist in the previous course. A bill in conformity to that of the

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previous year, was accordingly introduced passed, which being sent up to the legisla council, was there *amended* and sent bac the lower house. The amendment of the by that branch proved, of course, its quietu

The ministerial, or government party, in assembly had, by this time, become very ble, consisting of but some six or eight m bers at most, including Mr. Attorney-gen James Stuart, who, from a leader and a pat had finally become a placeman, and, fi the most popular man in the assembly, w impeaching the chief justices, in subservie to the animosities of the times, and no do in gratification of his own, was now the n unpopular, and odious of mankind, with quondam associates. Chastened by persecu and disappointment the most galling to a pr and lofty mind, and mellowed by age, Stuart has since been taught, by years experience, respect for the opinions, e prejudices, of his fellow men, and has a become, in the universal estimation of country, the great luminary and life of bench he eminently adorns; but in the "the days of his youth," though possess many excellent qualities, such, unhappily himself, was his arrogant and overbearing c position, that unless when he moved in direction of their prejudices, in which case was indeed powerful, and to be feared those against whom his vengeance was aim he could not fail to be obnoxious to any po

lar body entertaining a due sense of self-respect, in which his fortune might place him. Mr. Neilson, less assuming but of very superior tact, in dealing with the masses, though not of his shewy talents as an orator, had superseded him in the popular favor, and hostile to lord Dalhousie, for reasons previously explained, was in the ascendant, as leader of the french canadian party, only however, as in due time we shall also see, to take his turn in the vicissitudes which invariably await the pursuers of popularity.



After disposing as above, of the message and despatches laid before them, and introducing the civil list bill, the assembly resolved, "that the spirit of justice and wisdom which so eminently has distinguished the conduct of his excellency Sir Francis Burton, the lieutenant-governor, during his administration of the government of this province, has inspired a general confidence and gratitude, which the house partakes with the inhabitants of this province." And it was ordered, "that by reason of the temporary absence of his excellency, Mr. Speaker do communicate the said resolution to him, assuring him in the name of this house of its sentiments of gratitude, and of its respect for his public and private virtues."

Among the matters of the session entitled to notice was an address presented to his excellency the governor in chief, praying he would

be pleased to suspend the sale and alienation of the property of the late order of jesuits, situate in and near the city of Quebec, until his Majesty shall have been pleased to make known his royal pleasure with respect to the said property relatively to education, as expressed by the address of the house in the last session. To this he briefly answered that being well persuaded that his Majesty's government had no intention of acceding to the claims made to the estates of the jesuits in this province, as expressed by the address of the house in the last session, he must decline to comply with the prayer of the address.

To another address, praying that in the event of any application being made under the act of parliament of the united kingdom, of 22d June last, for a change of tenure of any lands held *en fief et seigneurie*, to free and common soccage, he would take into his favorable consideration the humble address of that house, of 28th February, 1824, and would impose on the regrant of such *fief et seigneurie* in free and common soccage, such terms and conditions as might preserve to persons desirous of becoming actual settlers on any unconceded lands in such *fief et seigneurie*, facilities of obtaining therein unsettled lands without purchase, on terms not more onerous than they are now legally enabled to obtain concessions of their land under the present tenure, he informed the house that he could be guided by no other considerations than what are

expressed by that act of the imperial parliament.

To soften the feeling which it was apprehended the refusal to comply with the views of the government at home, on the civil list, might produce, an address to the king was voted and transmitted through the governor. This, as usual in addresses of the kind, teemed in professions of "loyalty and duty to his Majesty's person and government, and for the many blessings which his subjects in this remote part of his dominions had long enjoyed under the royal protection."



"It is with sincere grief"—said they—"that your Majesty's faithful commons have found themselves compelled to take into their consideration a despatch of your Majesty's principal secretary of state for the colonial department dated the fourth of June last, which was laid before them on the fourteenth instant, by message from your Majesty's governor-in-chief, in which a large and variable portion of the public revenue levied in this province, in virtue of an act of the british parliament, passed in the fourteenth year of the reign of his late Majesty, your royal father of revered memory, is claimed to be applied at the discretion of your Majesty's government for the purposes of the said act, in such manner as it may see fit, for the benefit of the province, without the intervention of the colonial assembly.

"We most humbly submit to the royal consideration that your Majesty's faithful commons of this province, have been charged since the year 1818, with providing for all the expenses of the civil government, which they have ever been fully disposed to do to the utmost of their means, and consistently with the wants and circumstances of the province; but if so large a part of the revenue raised within the province is to be applied without their intervention, whilst they would have to lament the infringement of what they most humbly conceive to be a constitutional right, they might be

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rendered unable to discharge the important duties confided to them.

"Your Majesty's faithful commons humbly represent that the statute passed in your Majesty's parliament of Great Britain, in the 18th year of his late Majesty, intituled, "An "act for removing all doubts and apprehensions concerning "taxation by the parliament of Great Britain, in any of the "colonies, provinces and plantations in North America and "the West Indies," &c., conferred no new right on the inhabitants of the british colonies, but declared and confirmed the constitutional principle, that your subjects in the colonies, as well as those of your Majesty's kingdoms, ought not to be subjected to taxation without the consent of their representatives, to whom also of right it belongs to advise and consent to the application of all monies levied on their constituents.

"That the said act, as well as divers other acts of the british parliament, which declare and confirm the same principle, and numerous acts and declarations of the british colonies in America enjoying a representative government, have established a uniform colonial constitutional practice for all of them, under which they have annually applied the revenues raised within the colonies, and thereby exercised a necessary and effectual check on the public expenditure of their respective governments.

"That there is the less ground to refuse to your Majesty's subjects in this province the full exercise of this right, as they form the only colony of your Majesty's possessions in America, in favour of whom your imperial parliament is not annually called upon to vote a supply for the support of its civil government.

"Your Majesty's faithful commons humbly beseech your Majesty to take the premises into your royal consideration, to the end that your Majesty's protection may continue graciously to be extended to them in the full enjoyment of their rights."

Precisely at this time, a despatch from the colonial minister reached the governor, by which he was directed to pay all the salaries

and other expenses that had been rejected by the assembly, at the previous session, and which had hitherto been charged upon the revenue at the disposal of the crown for the expenses of the civil government and the administration of justice, up to the 31st of December last. This his lordship laid by message before the assembly. The above came opportunely, as in fact, several in the assembly, disingenuously affected to doubt his straightforwardness in the matter, and to believe that since the return of the lieutenant-governor to England, not only had the censure upon him been revoked, but that the bill which caused it was now approved by the minister, who would, rather than forego the supply, sanction such another, if the assembly insisted.



The expediency of appointing an agent in England, was again considered. The house, in committee, came to several resolutions on the subject, and among others, resolved that it was "expedient to appoint one or more agents or commissioners to attend to, forward and support the rights and interests of this province at the seat of the government of the united kingdom." His lordship, by message, acquainted the assembly that being "informed of an application made or about to be made to the legislature for the appointment of a responsible agent to represent the commercial interests of the province, at the seat of the imperial parliament, he was disposed to con-

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cur in any measure for the appointment of an agent or agents, under proper regulations." This, with the application alluded to, a petition from the merchants of Montreal, relating to the appointment of a person resident in London, to represent the commercial interests of the province, was referred to a select committee, who, a day or two before the prorogation reported upon the matter. They remarked that the house had made repeated efforts to nominate an agent in London, but were thwarted in their purpose by another branch —that the petitioners had confined their application to the appointment of an agent to represent the commercial interests, which were a part only of those of the province, while its general interests could not fall within the scope of his duty—this, they said, would tend to disunite interests in their nature inseparable,— They approved of his excellency's message as implying the nomination of an agent or agents, to represent the general interests of the colony, in which sentiment they joined, they observed, with the utmost satisfaction, being a measure of the first and most urgent necessity, but regretted that the advantageous recommendation of his excellency was not susceptible of being carried into execution that session, owing to its advanced state and probable early termination.

A return of the population of Lower Canada, pursuant to the act of last session was made,

fixing it at four hundred and twenty-three thousand.* Chap. XXV. 1826.

By the award of the commissioners under the Canada Trade Act (3d Geo. IV., c 119.) bearing date at Montreal, 23d July, 1825, laid before the Assembly, it was "determined that for the four years next succeeding the 1st July, 1824, one-fourth part of the duties levied in the province of Lower Canada, under the authority of any act or acts passed therein, upon goods, wares and commodities imported therein by sea, shall be paid to the province of

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* Schedule of emigration and return of the population of Lower Canada, according to returns received:—

| | | | |
|---|---|---|---|
| Cornwallis, | 20012 | Effingham, | 14921 |
| Devon, | 11934 | Leinster, | 19757 |
| Hertford, | 14044 | Warwick, | 15935 |
| Dorchester, | 19707 | Saint-Maurice, | 21066 |
| Buckinghamshire, | 33522 | Hampshire, | 13312 |
| Richelieu, | 36256 | Quebec, | 28623 |
| Bedford, | 23654 | Northumberland, | 11210 |
| Surrey, | 11573 | Orleans, | 4022 |
| Kent, | 10890 | Montreal, | 37085 |
| Huntingdon, | 39586 | Gaspé, | 2108 |
| York, | 30096 | Bonaventure, | 4317 |
| | | Total, | 423630 |

—*Journals of the Assembly.*

Comparative statement of the number of settlers arrived at the port of Quebec, from 1818 to 1825:—

| 1819. | 1820. | 1821. | 1822. | 1823. | 1824. | 1825. |
|---|---|---|---|---|---|---|
| 12,807 | 11,239 | 8,050 | 10,468 | 10,258 | 6,515 | 9,097 |

The aggregate number of emigrants arrived at the port of Quebec, in the last seven years, is 68,534. Probably a third of this number have settled in Lower Canada; of such the most numerous appear to be tradesmen, journeymen and day labourers, living in the towns of Quebec and Montreal; others have taken up new land, but in Lower Canada, such are not so numerous as might be imagined. A third, it is probable, have gone to United States, and the remainder may be settled in Upper Canada.—*Quebec Gazette.*

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Upper Canada, as the proportion of the same duties arising and due to the said province."

An address was presented to his excellency, praying he would be pleased to make such representations as he should deem proper, to his Majesty's principal secretary of state for the colonies, to obtain an answer to the humble address of the house, of the 17th February, 1824, on the subject of the defalcation in the late receiver general's chest, to which he answered that he would not fail to repeat the earnest representations he had already made on the subject.

A judicature bill, and another relating to the representation of the province, were passed and sent up to the legislative council. The former underwent amendments, but being sent up at so late a period, was postponed. The latter was rejected. It was termed a "bill to make a new and more convenient division of the province into counties, for the purpose of effecting a more equal representation thereof in the assembly than heretofore." But the bill, in fact, would not have equalized the representation, for while it increased the number of representatives from fifty to eighty, the eastern townships, hitherto unrepresented, were to be allowed to send only five members to parliament, or a sixth part of the increase.

Although considerable business was done during the session, and the usual supplies to hospitals, asylums, schools, and all the public and charitable institutions, that had heretofore

received pecuniary aid from the treasury, by vote of the assembly, were voted, much remained undone and lay over. All business being at an end for want of a *quorum*, the greater part of the members having gone to their homes, the governor prorogued the legislature on the 29th March, sanctioning twenty-nine bills, reserving six, five of them money bills,* for his Majesty's pleasure, and rejecting one. The following is his excellency's speech on the occasion:— Chap. XXV. 1826.

"When I met you at the opening of this session, I stated to you in general terms, the prosperous circumstances of the province, and the evident necessity that existed for measures to encourage the disposition of the people to industry and public improvement; to secure and to increase the value of property; and to facilitate the administration of justice in this fast increasing population.

"I received the most pleasing assurances that I should have your support and co-operation on all matters tending to those desirable ends. It is therefore, with the deepest regret, that I now find my hopes disappointed upon the most important subjects which I presented to your consideration.

"I feel pleasure, however, in acknowledging the laborious attendance of both houses, and the attention you have given to some of those measures, which, though not yet perfected, I shall still entertain the hope of seeing accomplished.

"Gentlemen of the house of assembly,—I had been led to believe, and his Majesty's government had been told, that the differences which had so long subsisted between the legislative bodies, on financial matters, had been amicably settled;—it is now seen, however, that the long asserted claims from which those differences arose, were only clothed in a new form, and maintained; and that the act of supply which passed last year, was founded in misconception and misunderstanding.

* These were sanctioned by his Majesty in council.

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"Early in last summer, his Majesty's secretary of state addressed a despatch to the lieutenant governor, (then administering the government in my absence,) forcibly pointing out the objections to that act, and prohibiting his Majesty's representative from sanctioning any similar measure in future. Anxious to avoid the necessity of publicly communicating these instructions, I made them fully known to several members who take a lead in the affairs of the legislature, in the hope that some measure of accommodation might be adopted, more conformable than the act of supply, of last year, to the sentiments and views of his Majesty's government.

"Finding, however, that all my endeavours to attain that happy termination were about to prove unavailing, I felt it my duty to place that despatch before you. As it now stands recorded upon your journals, I have no hesitation in stating to you, that I must adhere to the orders and instructions it contains, until they are recalled by his Majesty's commands, and that until then, I must continue to adopt the forms of accounts and estimates laid before the provincial parliament in this session, shewing to you one branch of the revenue for your information, and the other branch for your appropriation.

"Under the circumstances in which I am now placed, I think it my duty to accept those grants of money which have been specially recommended by his Majesty's commands, and those also relating to schools and charities.

"For these I return you thanks in his Majesty's name; but, as the aid required in support of the civil government and the administration of justice has not been granted in a way in which it could be passed into a law, I think it is equally my duty to reserve all other bills of appropriation for the signification of his Majesty's pleasure upon them.

"Gentlemen of the legislative council, and gentlemen of the assembly,—I cannot close this session without making a pointed reference to one bill which has been passed, under a feeling in the highest degree honourable to this province and peculiarly agreeable to myself; it is that which has sanctioned an act of the executive government, resting upon my own discretion and responsibility, in sending relief to the

it Miramichi. I thank you for the generosity with
e amount of that expenditure was granted, as well
readiness with which you justified the discretion-
r I had exercised."

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ie of imports at the port of Quebec, in 1826, for which the
per cent was paid, amounted to £715,836, that of free
15,086. The arrivals in Quebec, are stated at 714 vessels,
total of 9,949 tons, and employing 8,163 seamen. The im-
ie district of Gaspé, on which the like duty was paid
to £11,520, of which £8,994 were for entries at the Cus-
at New Carlisle, in the Bay Chaleurs, and £2,526 in that
of Gaspé. The exports of dried codfish, the staple of that
the province, are stated in the official returns for this year,
17 quintals, of which 19,661 were shipped from the Bay
and 14,356 from Gaspé, employing in the foreign trade 43
making a tonnage or total of 6,488 tons, and employing 342
is believed that the exports of this year from Gaspé, would
considerably short of an average upon the five preceding

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llowing resolutions were passed by the Assembly in com-
the whole, before passing the Supply Bill, in the late ses-
6) as explanatory of their views in connection with it, and
med right of applying the appropriated revenues :—

iat it is the opinion of this committee that it is expedient to
the determination of the house, as recorded in its votes and
gs on the civil expenditure of the government of this pro-
1810, 1819, 1821, 1822, 1823, 1824, 1825, and during
it session, to vote upon all the necessary sums for paying
expenses, and to renew its resolutions of the 12th March,
h Jan. 1822, 7th March, 1823, 2d March, 1824, and 13th
26, in so far as they are opposed to the exclusive applica-
y part of the public revenue, to particular services, without
nt of this house.

hat the Statute of the 18th Geo. III., chap. 12, has not con-
new rights upon the inhabitants of the british colonies, but
claratory act, the enactments whereof recognize and conse-
constitutional maxim, that the colonies having a representa-
an unalienable right not to be taxed without the consent of
esentatives, and that to the Legislature alone appertains the
istributing all monies levied in the colonies.

hat the said act as well as a multitude of other acts of the
rliament which announce the same principles, and the acts

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and constant claims of the british colonies which have enjoyed a representative system, have established a public colonial law, uniform for them all, under which they have prospered, by which their legislatures have annually distributed the revenue and exercised an effectual and necessary controul over the expenses of their administration.

4. "That there is the less reason to maintain that this province ought not to enjoy that right, as it is the only one of all the North American colonies, for which the imperial parliament is not every year called upon to vote a great part of the expenses of the civil government. That this house is yet willing, as they have always been, to grant all the sums towards the necessary expenses of the administration of justice, and the support of the civil government, provided they have a just controul over the whole revenue.

5. "That even assuming as a proposition, which, nevertheless, this house do formally reject, that the revenue applicable to the payment of the expenses of the civil government, and of the administration of justice, may legally be distributed by any other authority than that of the legislature; if they were sufficient to defray the whole of those expenses, the claim set up by the present administration to exemption from the effectual and necessary controul of the assembly, in the distribution of that portion of the public revenue, is by so much the more ungrounded, as in consideration of the acknowledged insufficiency of those funds, the house of assembly being called upon, to supply additional considerable sums, indispensably necessary for covering the whole expenses of the civil government, and of the administration of justice, they have the right of annexing to that grant, such conditions and limitations as the interest of the country appears to them to require."

# CHAPTER XXVI.

Opening of the legislature—despatch relating to Sir Francis Burton—extract of a despatch relating to claims of the province on Mr. Caldwell's defalcation—addresses in consequence—answers—public accounts of 1826 sent down with the estimate for 1827—estimate different from those of previous years—referred to a select committee—other messages—address relating to the jesuits' estates and education—answer—report of select committee on estimates, &c.—considered in committee of the whole—resolutions—prorogation and speech—proposals by the governor relating to royal institution for the advancement of learning—seminary of Montreal—addresses to the governor—agitation and falsehoods to his prejudice—militia laws—dissolution of parliament and general election—governor proposes the erection of a monument to Wolfe and Montcalm—which is accordingly built by subscription—parliament meets—Mr. Papineau chosen speaker—is rejected by the governor, and parliament consequently prorogued—great agitation—public meetings at Montreal, Quebec and other places, and addresses to the governor in approval of his conduct—petitions of grievances on the contrary to the king and parliament resolved—criminal prosecutions by the attorney general for libels upon the governor—Rideau canal commenced—public land no longer to be granted gratuitously, but in future to be sold at public sale—a commissioner (Mr. Felton) of crown lands, appointed—varieties—militia general orders dismissing militia officers.

NOTHING of any public interest having taken place during the summer of 1826, we may pass on to the legislative session of 1827,

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which the governor-in-chief opened on the 23d of January, with the following speech:—

"I have again the honour, as his Majesty's representative, to meet you for the despatch of the public business, in this session of the provincial parliament.

"I regret to say, that the distress which has pressed so generally and so heavily upon the manufacturing districts and trade of England, has also been severely felt in our commercial affairs; but it is the natural and unavoidable consequence of our intimate connexion with those interests of the mother country. Notwithstanding this, the resort of shipping here this last summer has not diminished materially, and the revenue nearly equals that of the year preceding.

"If we have felt the shock of adverse circumstances, I trust we may now indulge in the pleasing prospects held out in his Majesty's speech at the opening of the present session of the imperial parliament, of a progressive return to the wonted activity of commerce and industry in the United Kingdom.

"The unusual drought of the last summer, and the fires which spread in the woods, gave cause for much apprehension, and were indeed destructive in many parts of the province; I am happy, however, to find that, though the season did not prove favourable to the grain crop, yet there is a general abundance of the necessaries of life: I still, therefore, may congratulate you on the peaceful happiness which the province enjoys under the blessing of Divine Providence.

"Gentlemen of the house of assembly,—I have directed the accounts of the revenue and expenditure in the past year to be laid before you, and also an estimate of the supply I am to require for the public service, in obedience to instructions I have recently received from his Majesty's secretary of state.

"Gentlemen of the legislative council, gentlemen of the assembly,—I must call your attention to those measures of public interest which I have before recommended to you, and which were left unfinished in the last session.

"Quiet and peaceful as this province is, yet the popula-

tion increases so rapidly, and society expands so widely, that I feel every year the necessity more urgent for an extensive and active system of police, to keep pace with that progress. Amidst the changes which are thus operating in the state of the province, I lament to say that none appears more striking than the increase of crime; to whatever cause it may be ascribed, it is in itself a fact which calls for measures specially and speedily applicable to the evil; the grand juries in some of the districts have made their presentments in language so forcible, that I shall lay these documents before you, to shew the various and serious difficulties to be removed; I am myself convinced, and I would earnestly press it upon your consideration, that the time is arrived for the establishment in every county of those authorities necessary to enable the executive government to watch over and promote the local interests in each. Chap. XXVI. 1827.

"Other matters of importance will be communicated to you by message, in order that I may explain them more distinctly than this occasion allows. Be assured of my best and unwearied exertions in that station in which his Majesty has been graciously pleased to place me in this province; and that it will always be one of the chief objects of my endeavours to concur with you in whatever may tend to the public advantage."

"We respectfully thank your excellency"—said the assembly in their answer—"for having directed the accounts of the revenue and expenditure for the last year, as well as an estimate of the supply required for the public service to be laid before us, and we beg your excellency to be assured that these communications will receive from us all the attention which the public service requires.

"In recalling to us those measures of public interest which were recommended by your excellency, but left unfinished in the last session, your excellency has furnished to us an

hap. additional motive for applying to them our
xxvi. most zealous consideration." * * * *
1827. "It will be our anxious desire to co-operate with your excellency in all measures calculated to advance the public interest."

A more promising address could not be desired, and, accordingly, the governor returned them his thanks, acccepting, with much satisfaction, he said, the assurances they afforded him in it.

One of the first steps of the assembly on the opening, was the appointment of a committee of five members to keep up a good correspondence between the two houses, to which the legislative council responded by appointing a committee of three, for the like purpose.

On the 31st of January, the governor stated by message, that he took "an early opportunity of acquainting the assembly that having felt it his duty to solicit from his Majesty's government, an explanation of a despatch addressed to Sir Francis Burton, (but received after his departure from the province) having reference to a previous despatch to him of 4th June, which had already been communicated to the legislature, and having requested authority to lay such explanation before the legislature, or to make some statement in justification of Sir Francis Burton, from the particular censure for breach of instructions, conveyed in the before-mentioned despatch of the 4th June, he had been instructed to take a fit opportunity of making it known, that on Sir Francis Burton's

communicating to his Majesty's secretary of state the fact, that he had not in his possession the two instructions mentioned in the despatch of the 4th of June; and as he declared that if he had been in possession of them, they were so positive, that he would have implicitly obeyed them, the secretary of state had directed the governor-in-chief to have it duly notified that Sir Francis Burton stood entirely acquitted of any blame of having acted at variance with those instructions."



His excellency, on the same day, also laid before the assembly, an extract of a letter recently transmitted him by the colonial minister, by which it appeared, that the lords of the treasury did not consider that the imperial treasury could be held responsible or was bound to repay the sums due to the province by the late receiver general. "My lords,"—it was said—"cannot admit that the province of Lower Canada has any legal or equitable claim upon the government of the United Kingdom of Great Britain and Ireland, to make good the loss which has been sustained by the insolvency of Mr. Caldwell, the receiver general of the province."*

* "Extract of a despatch from W. Hill, esq., to R. W. Horton, esq., dated Treasury Chambers, 30th October, 1826:—"The lords commissioners of his Majesty's treasury, having had under consideration your letter of 15th August last, transmitting the copy of a despatch and of its enclosures which were received from lieut-general the earl of Dalhousie, respecting the financial affairs of Lower Canada, and requesting to be favored with their lordships' opinion thereon, I am commanded to acquaint you for the information of the earl Bathurst, that my lords cannot admit that the province of Lower Canada has any legal or equitable claim upon the government of Great

A few days after the above communication, an address was presented to his excellency, praying that he would be pleased to order to be laid before the house, a copy of the despatch from his excellency referred to in the extract of a despatch from W. Hill, esquire, dated treasury chambers, 30th of Oct., 1826, annexed to his excellency's message, and also copies of the accounts of the receiver general transmitted to his Majesty's government in England, since the accounts of the receipts and disbursements of the receiver general's chest, as laid before the house by message of 29th November, 1823; also a statement of the receipts and disbursements of the same since the date of the last account transmitted to England, with an account of the cash now actually in the chest, stating the place where it is lodged and the security given or taken for its safety, together with copies of such instructions or directions as may, from time to time, have been received by his Majesty's government in the colony relative to the manner and form of accounting for the revenues of the province to his Majesty, through the lords commissioners of his Majesty's treasury. And also that his excellency would be pleased to direct that there be laid before this house any opinion or opinions which may have been given by the law officers of the crown, on the legal responsibilities of

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Britain and Ireland, to make good the loss which has been sustained by the insolvency of Mr. Caldwell, the receiver general of the province."

his Majesty's receiver general in this province; and how far the laws of Great Britain, in regard to officers of his Majesty's treasury extend to officers holding commissions from the government in England, for the receipt of his Majesty's revenues in this province, and to be accounted for to the lords commissioners of his Majesty's treasury. Chap. XXVI. 1827.

In answer to the above, a message (inserted below)* was sent down. The assembly also

* The governor in chief has endeavoured to meet the desire of the house of assembly, in their address of the 5th instant, by separating the various enquiries and matters contained in it, and making his answer to each point, *seriatim*:

*Address of the Assembly.*

HOUSE OF ASSEMBLY, Monday, 5th Feby., 1827.

Resolved, That an humble address be presented to his excellency the governor in chief, praying that he would be pleased to order to be laid before this house,

*Answers.*

(1.) A copy of the despatch from his excellency referred to in the extract of a despatch from W. Hill, Esqr., dated treasury chambers, 30th Octr., 1826, annexed to his excellency's message of the 31st ultimo,

(1.) The governor in chief declines to give a copy of this despatch to his Majesty's government, the subject of that part of his correspondence being sufficiently stated by Mr. Hill, in his letter, of which an extract is before the house.

(2.) Also copies of the accounts of the receiver general, transmitted to his Majesty's government in England, since the accounts of the receipts and disbursements of the receiver general's chest, laid before this house by message of the 29th Novr., 1823.

(2.) The receiver general has stated to the governor in chief that he can furnish, in the course of a week, copies of his account current, stated twice a year, from the 25th Novr., 1823, shewing the gross amount of all his receipts and payments up to the 10th Oct., 1826.

But the accounts in detail would employ a clerk more than a month, the number of Warrants paid annually averaging eight hundred; and as the abstracts of Warrants issued during each year, together with full statements of all monies received are already before the legislature, it appears that further information can hardly be necessary; should it, however, be deemed so, complete sets of the receiver general's accounts are lodged in the audit office.

addressed his excellency praying he would be pleased to order to be laid before the house, copy of the despatch addressed to Sir Francis Burton, but received after his departure from this province, having reference to the previous

(3.) Also a statement of the receipts and disbursements of the same since the date of the last account transmitted to England, with

(3.) This appears to be part of the former enquiry, and is answered as above.

(4.) An account of the cash now actually in the chest, stating the place where it is lodged and the security given or taken for its safety.

(4.) An account of cash in the receiver general's chest, on the first February, accompanies this message. With regard to the security taken for its safety, as his Majesty has not yet been pleased to grant his commission confirming Mr. Hale in the office of receiver general, the security cannot be required; but, while acting in that office, the governor in chief has always considered the long services of Mr. Hale, his well-known character, his upright integrity, and the large property he possesses in the province, as affording in the mean time, sufficient security for the monies entrusted to his care.

(5.) Together with copies of such instructions or directions, as may, from time to time, have been received by his Majesty's government in this colony, relative to the manner and form of accounting for the revenues of the province to his Majesty, his heirs and successors, through the lords commissioners of his Majesty's treasury.

(5.) The general instructions relative to the manner and form of accounting for the revenues, have been already communicated to the assembly, and have been acted upon for many years; should further information be wished for on any particular point, the governor in chief desires that it may be more distinctly specified.

(6.) And also that his excellency would be pleased to direct that there be laid before this house, any opinion or opinions which may have been given by the law officers of the crown, on the legal responsibilities of his Majesty's receiver general in this province, and how far the laws of Great Britain, in

(6.) The governor in chief must decline to lay before the legislature those opinions of law officers of the crown, which have been called for and obtained only for the confidential information and guidance of the executive government.

regard to officers of her Majesty's treasury, extend to officers holding commissions from his Majesty's government in England, for the receipt of his Majesty's public revenues in this province, to be accounted for to the lords commissioners of his Majesty's treasury.

"DALHOUSIE."

Castle of St. Lewis, Quebec, 9th February, 1827."

despatch of Sir Francis Burton, of the 4th June, 1825, mentioned in his excellency's message. To this he answered that he had communicated to the assembly the substance of the despatch he had received from the secretary of state. That he felt every disposition to give the fullest information to the house on matters of public interest, but must decline to lay before the public the correspondence of his Majesty's minister with the executive government of the province. "I think"—said he—"such a course objectionable in general, and in this particular case inexpedient." This matter was ordered to be taken into consideration in committee of the whole, but the order was afterwards discharged, and a select committee named to examine and report upon it. Their report will be noticed in its turn.



On the 6th February, the accounts and other statements of the revenue and expenditure of the province, for 1826, shewing also the payments made within the year, for services of former years, unprovided for by acts of the legislature, were laid, by message from his excellency before the assembly, as were also the estimates of the supply required for the current year.

The net income of the year ending the 10th October, 1826, including amount outstanding in bonds, was £126,661, currency, whereof £92,460 were actually in the hands of the receiver general. The civil expenditure for the same period was £77,058, stg., including sala-

Chap. XXVI. 1827.

ries to officers of the legislature, and contingencies of the two houses, amounting to £7,600. The estimate was now in a different shape from what it had been in any previous year, not exhibiting the estimated total expenditure for the year, but the expenses of such departments and offices only as were not to be defrayed from the revenue applicable to the administration of justice and support of the civil government. There was no mention of the judges and other principal officials of the executive, whose salaries were considered as provided for out of those permanent funds known as the crown revenues, the "*application*" whereof the assembly asserted belonged to them. The departments for which the supply was required were, that of the "CLERK of the TERRARS of the king's domain—"SURVEYOR GENERAL'S department"—"OFFICES of AUDIT and inspection of accounts"—RECEIVER GENERAL'S department, and certain contingencies of the administration of justice; in all £6,575, sterling. There was also another estimate, (No. 2.) for printing the laws and divers miscellaneous charges, including the pension list, (£1,810) salaries to the grand voyers, &c., (£585) rent and repairs to public buildings, (£2304); total £5467, sterling. There was also a deficiency in the appropriated revenue of the previous year of £2,318, sterling, short of the permanent charges upon it, and which the assembly were called upon to make good. The estimate of the expenses of the legisla-

ture for 1827, stated them at £12,117, sterling. There was also the sum of £1,805 overdrawn by Sir Francis Burton, on account of salary, while administering the government, which they were called upon again (as they had been in the previous session) to make good.



His excellency's message, with the estimates and accounts accompanying it, were referred to a committee of seven members, (all, with the exception of two, opposed to the executive, whose adherents in the assembly did not now exceed five) to examine the same and report upon them. A favourable result, it is hardly necessary to observe, was not expected. It will appear presently. In the mean time, the governor sent down several messages to put the assembly in possession of the business for the despatch whereof in particular the government had a claim upon its immediate attention.* All these were referred to the same committee.

* "The governor in chief informs the assembly that the necessary expenses of the civil government and of the administration of justice during the last year, have exceeded the amount of revenues appropriated therefor by law, and at the disposal of the crown, and no appropriation having been made in the last session, in aid of the said revenues and to provide for such expenses, he has been under the necessity of advancing the amount thereof, being a sum of £2,318 19s., sterling, out of the unappropriated monies, according to the sums stated in the estimate submitted to the assembly in the last session, and he calls upon the assembly to make good the amount so advanced for indispensable public services on the pressing emergency of the case, and also the amount advanced for pensions and other services not provided for, as shewn by the same statement.

"The governor in chief also lays before the assembly a list of sums advanced by him on accountable Warrants, for the salaries of the legislature and other salaries and expenses of government for the

Chap. XXVI. 1827.

An address relative to the jesuits' estates was again presented, requesting his excellency would inform the house whether he had ob-

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last year, which were left unprovided for at the close of the last session of the legislature. These advances have been made by him in consideration of the extreme injustice of withholding the fixed and recognised salaries of officers who had done their duty, and the distress to which many of them would thereby have been exposed; he leaves it to the assembly either to make good these advances or to take such course as they shall see fit for causing them to be repaid by the persons who are accountable for them.

" DALHOUSIE.

" Castle of St. Lewis, Quebec, 7th February, 1827."

The governor in chief lays before the assembly a separate estimate of the salaries and expenses of the officers connected with the legislature, and in calling their attention to the great deficiency of the funds specially raised and appropriated for this purpose by the Act 33d George III., he recommends to the assembly to make provision either annually or by a general enactment for the payment of that deficiency from the unappropriated funds of the province. He also calls the attention of the house to the want of proper authority for the payment of the salaries of the speakers of the legislative council and assembly, and he recommends to the assembly to provide for the same in a sufficient and permanent manner. " DALHOUSIE.

" Castle of Saint Lewis, 7th February, 1827."

" The governor in chief recommends to the assembly to provide for the annual expenses incident to the execution of the militia act, by making an appropriation for the pay of the officers of the staff of the militia as formerly, and also for the necessary contingencies of the department; and that a further sum, not exceediong £1000, be placed at the disposal of the government for the purposes of supplying arms to the militia when it may be judged expedient, and of covering other necessary expenses under the act.

" DALHOUSIE.

" Castle of St. Lewis, 7th February, 1827."

" The governor in chief again submits to the assembly the expediency of increasing the allowance granted for the temporary houses of correction at Quebec and Montreal, and in proof of the necessity of such increase, he lays before the assembly copies of communications from the persons having the management of those establishments.— He also informs the assembly that upon these representations he has authorized the advance of £100, for clothing for the naked prisoners at Quebec, and the sum of £24 for the necessary repairs of the building at Montreal, and he recommends to the assembly to make good these sums over and above any augmentation that may be granted for the ordinary expenses of those establishments.

" DALHOUSIE.

" Castle of St. Lewis, 7th February, 1827."

tained leave to communicate to it such instructions as he had, from time to time, received from his Majesty's government respecting those estates, and the application of the revenues thereof for education in this province,



"QUEBEC, January 2d, 1827.

"Sir,—The undersigned commissioners for the house of correction of this district, consider it their duty to represent to his excellency the governor in chief, the insufficiency of the rooms now occupied in the gaol for the purpose of the house of correction.

"There is now confined in the house of correction fifty prisoners, male and female, a proportion of each sick and requiring to be kept separate from the others. Some diseased with incurable disorders, who ought not to be confined in the same room, much less to sleep in the same beds with those that are well. Yet such is the crowded state of the rooms, that although they sleep three in one bed, there is not sufficient bedsteads for them, and several have been compelled to sleep on the floor. It will readily be seen that the commissioners, far from having it in their power to make a proper arrangement of the prisoners, with regard to their age, calling, and character, cannot make the necessary distribution for health.

"The commissioners have already represented their inability to procure junk to keep the prisoners in the house of correction at work as heretofore, and that they are in consequence entirely idle: should it be deemed inexpedient to finish the stepping-mill, they take the liberty of suggesting that the lower part of the building might, at a small expense, be fitted up into cells, and with a suitable appropriation, the prisoners might be employed in breaking stone for the public roads.

"Several of the prisoners in the house of correction, whose time is about expiring, are so destitute of clothing, (as will appear by the report of the master of the house of correction herewith,) that if discharged in that state, at this inclement season, they may be subject to perish. A small sum of from five pounds to ten pounds would be sufficient to supply such of them as are in this state with clothes to protect them from the weather. A further sum of one hundred pounds is required to renew the sheets and bedding, and to procure further clothing for the men.

"The commissioners beg leave respectfully to call the attention of his excellency the governor in chief to the communications of the 20th February, 1821, February 1823, 13th January, 1824, and 10th February, 1826.

"We have the honor to be, &c.,

(Signed) "BENJ. TREMAIN,
"JAS. VOYER."

"A. W. COCHRAN, Esquire.

"A true copy. A. W. COCHRAN, Secretary."

Chap. XXVI. 1827. and, in such case, that he would be pleased to give the house communication of them. And requesting to be informed whether he had received any communication from his Majesty's government on the subject of the address of the house to the king in 1825, respecting education and the said estates, and that he would communicate it to the house. To this application his excellency answered that, " inquiries had been made by earl Bathurst respecting the revenue of the jesuits' estates, but that he had no permission to communicate these despatches to the legislature."—" I have not yet" —he added—" received any communication from his Majesty's ministers on the subject of the address of the assembly to his Majesty in 1825, respecting the jesuits' estates."

The committee to whom the governor's message with the public accounts and estimates had been referred, made a long and special report, concluding as follows :—

" Your committee cannot withhold an expression of regret that they see, in the accounts and estimates of the present year, undeniable evidence of a perseverance in the pretensions first set up in 1822, to withdraw a large portion of the expenditure of the province, paid out of its public revenue, from the check of a previous vote of the assembly, and leave the total amount, which has doubled in twenty-five years, without any controul on the part of those who contribute to its payment.

" Your committee consider the perseverance in this pretension the more alarming to the constitutional privileges of the house and the property and rights of the subject, as a great part of the duties which the inhabitants of this province are called upon to pay, have been made permanent by Acts

of the imperial parliament, and the monies arising there- Chap
from have been in part repeatedly drawn by the executive xxvi.
authorities alone, from the hands of the receiver general, in
which they are deposited according to law, without the 1827.
enactment of the colonial legislature, as required by the constitutional act 31st Geo. III., chapter 31, section 47, while its bills of supply, providing for all the necessary expenditure of the government, with the exception of that of 1825, have been rejected."

This lay on the table for some days, and the matter finally was referred with the message, estimates and public accounts, to the consideration of a committee of the whole. Before it came on, "A SUPPLY" was moved for in due form, but it was ordered, "that the said motion be referred to the committee of the whole house on his excellency the governor in chief's message with the estimate and public accounts, and on the report of the special committee to whom were referred the said message, estimate and public accounts." The special committee to whom had been referred the messages and correspondence above noticed relating to Sir Francis Burton made, about this time, their report, one object of which seems to have been to cause it to be believed that the government at home had changed its views of the supply bill of 1825, accepted by Sir Francis Burton, and that not only it had exonerated him from all blame in accepting the same from his ignorance of the instructions on the subject, but that it now actually approved of the bill, and commended his wisdom in accepting it, and con-

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sequently that the governor in chief was, in the present instance, actuated by selfishness, and proceeded on his own responsibility against the sense of the home government.* It was also "ordered that the said report be referred to the committee of the whole house on his excellency the governor in chief's message, with the estimate and public accounts."

The house accordingly resolved itself into committee, on the 6th of March, when the following resolutions were passed, which, on the

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* "Your committee are of opinion that your honorable house in requesting further information as to the sentiments of his Majesty's government respecting the supply bill of 1825, never for a moment entertained an intention of calling for a justification of the lieutenant governor, in giving the royal assent to that bill, the conduct of his excellency in that particular, as well as in the whole of the administration of this government, being such, as in the opinion of your committee, must secure to him the approbation of our most gracious sovereign, and the gratitude, affection and respect of all classes of his Majesty's subjects in this province.

"That by refusing to comply with the address of this house of the 3d February last, praying to have communication of the dispatch relative to the supply bill, addressed to Sir Francis Burton, but received after his departure from the province, his excellency the governor in chief puts it out of the power of this house to proceed with the full knowledge of the sentiments of his Majesty's government, on this head, which it ought to possess, in order to make a grant to his Majesty, in a way consistent equally with its duty to the crown, to the people of this province as its constituents, and with the constitutional privileges of this house.

"Your committee have been unable to find any thing satisfactory in the explanations and reasons assigned by the said message, as the sole foundation of the revocation of the dispatch of the 4th June 1825.

"It appears, by the said message, that his excellency the governor in chief, grounds the opinion which he announces of this subject, upon a dispatch of which he refuses to give your honorable house communication.

"Your committee, in the absence of that essential document, are of opinion that it may be believed, that the justification of his excellency the lieutenant governor does not rest solely upon the reasons adduced in the said message."

question of concurrence, were adopted by an overwhelming majority,* virtually refusing a supply. Chap. XXVI. 1827.

This terminated the matter, and brought the session to a close. The governor in chief, on the following day, prorogued the legislature, giving the royal assent to such bills as had passed the two houses, but twenty-one in all, and none of them of any considerable importance.† His excellency's speech will better

* 1. That this house continues to adhere to the resolutions and addresses which it has made on the subject of the expenses of the civil government, as recorded on its journals.

2. That the manner and form of auditing the public accounts, and accounting for the due application of the public revenues, is insufficient to secure a just, correct and responsible application of the public monies, and that there is no adequate security against the misapplication of the funds deposited by law in the hands of her Majesty's receiver general for the province.

3. That the house does not acknowledge or in any way sanction any payments made out of the public revenue of the province which have not been authorised by an act of the legislature, or advanced on an address of the house.

4. That the house nevertheless continues disposed to grant a supply for the current year, in the manner provided in the act passed in 1825, and in the bill of 1826.

5. That the present estimates do not afford to this house an opportunity of granting such a supply.

Upon a division of the house on these resolutions, the names were recorded as follows:—

Ayes—Messrs. Clouet, Rochon, Déligny, Valois, Courteau, Heney, Dessaulles, Cuvillier, Borgia, Bourdages, Lagueux, Drolet, Fortin, Robitaille, Perrault, Amiot, Després, De Rouville, Laterrière, Belanger, Tourgeon, Neilson, Proulx, Quirouet, Boissonneault, Viger, Leslie, De St. Ours, Blanchet, Quesnel, Larue, and Berthelot.

Nays—Messrs. A. Stuart, Sol. Genl. Ogden, Simpson, Taschereau, Young and Davidson.

† Among those bills was one declaring marriages in Lower Canada, by ministers of the kirk of Scotland, and the registers kept by them of such marriages to be legal, which down to this period had been questioned by certain jurists in the province. This act, however, set the question at rest.

Chap. XXVI. portray the state of public matters, than any thing that can be substituted for it:—

1827. "Gentlemen of the legislative council, gentlemen of the assembly,—I come to close this session of the provincial parliament, convinced, by the state of your proceedings, that nothing likely to promote the public interest can be now expected from your deliberations.

"To you, gentlemen of the legislative council, who have attended to your duties in this session, I offer my thanks on the part of his Majesty, as an acknowledgment of the regard which, by your presence, you have shewn to the welfare of your country, and also of that proper respect which you have manifested for the sovereign, from whom your honours are derived.

"Gentlemen of the assembly,—It is painful to me, that I cannot speak my sentiments to you in terms of approbation and thanks. The proceedings in this session impose upon me a duty, of which, however unpleasing, I will acquit myself as a faithful servant of my king, and a sincere friend to the province.

"Many years of continued discussion of forms and accounts have proved unavailing to clear up and set at rest a dispute, which moderation and reason might have speedily terminated. It is lamentable to see, that no efforts or concessions of his Majesty's government have succeeded in reconciling those differences of opinion in the legislature; but it is infinitely more so, that differences on one subject should cause a rejection of every other measure which his Majesty's government recommends to your consideration.

"The duties expected of you in this session were not difficult; among the first was an examination of the public accounts of last year, and a report upon them, whether of approval or otherwise;—has that duty been done so that your country can know the result?

"Have you considered the estimated expenditure for the current year, and granted the supply required in his Majesty's name? or have reasons been assigned for the refusal of them, that can be known and understood by the country?—Have the messages from his Majesty's representative been

duly acknowledged, and answered according to the rules and forms of parliament, or according with the respect which is due by each branch of the legislature to the other? Chap. XXVI. 1827.

" Have the rules or orders of proceeding in the house of assembly been attended to, in so far as they affect and recognize the prerogative rights of the crown?

" These are questions, gentlemen, which you are now to ask yourselves individually, and answer to your constituents on your return to them.

" These are questions which you are to answer to your consciences, as men who are bound by oaths of fidelity to your country and to your king.

" In my administration of the government, I have seen seven years pass away without any conclusive adjustment of the public accounts; thus accumulating a mass for future investigation, which must lead to confusion and misunderstanding. In the same years I have seen the measures of government, directly applicable to the wants of the province thrown aside without attention and without any reason assigned. I have seen the forms of parliament utterly disregarded; and in this session a positive assumption of executive authority, instead of that of legislative, which last is, alone your share in the constitution of the state.

" The results of your proceedings in this session have been, the refusal of the supplies necessary for the ordinary expenses of government, the loss of the militia bill, the failure of all provision for the maintenance of prisoners in your gaols and houses of correction, for the support of the insane and foundlings, and for the establishments of education and charity, and a total obstruction of local and public improvements.

" In this state of things, and with the experience of past years, it is now no longer consistent with a proper discharge of the high trust committed to me, to entertain hopes of a return to better reason in the representative branch of this parliament but it is still my duty to call upon you as public men, and to call upon the country, as deeply interested in the result, to consider seriously the consequences of perseverance in such a course.

" I shall conduct the Government with the means in my power, with an undiminished desire to do good; but while

Chap. XXVI. 1827.

I must submit myself to the interruption of all public improvement, under the authority of the civil government, I will declare my deep regret at such a state of things: I think it right to convey to the country, a free and unreserved expression of my sentiments upon these public misfortunes; and I will leave no doubt on the public mind of my determination to persevere firmly in the path of my duty, with a faithful regard to the rights of my sovereign with which are also combined the best interests of the province.

"It only remains for me now, compelled by existing circumstances, to prorogue this parliament, whatever may be the inconvenience resulting to the province by such a measure."

Among the many important matters recommended by message, the detail whereof would not be interesting, there is one, however, that ought not to be overlooked. The Royal Institution established by an act in 1801, as previously noticed (vol. 1st, page 216,) had not, for want of co-operation on the part of the roman catholic clergy, who looked upon it with jealousy, succeeded to the extent it was hoped it would, but to the present time had languished on a feeble existence, and on the whole had proved but an expensive and fruitless establishment. Lord Dalhousie had much at heart to elevate and give it efficiency as an educational institution, and strove to engage the support of the roman catholic bishop and clergy in giving it effect, in which it would seem by his message to the assembly, he had at length succeeded.*

The assembly, however, paid no attention to

* "The governor in chief, in laying before the assembly a return of the schools to which the sum appropriated by the act of the last session (6th Geo. IV., cap. 13) has been applied, informs the house

the subject, and the scheme accordingly fell to the ground.

The article below relating to the Montreal Seminary, is taken from the Quebec Gazette, official, of the 1st of February of the present year. It was not however, until 1840, that any final adjustment of the matter was made, which, when it took place, was confirmed by an ordinance of the special council, (the legislature for the time being,) and which finally was ratified by the government at home *

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that the duty of preparing this return not having been imposed by that act on any particular person, the secretary of the Royal institution, the Rev. Dr. Mills, has voluntarily performed it with much labour and care. The governor in chief considering it but just to grant remuneration for this duty, performed by him in the execution of the act, has caused a warrant to be issued in his favour for one hundred pounds, and he recommends to the assembly to cover this advance by an appropriation.

"The governor in chief, with great satisfaction, further informs the assembly, that an arrangement is about to be carried immediately into execution, with the co-operation of the bishop and clergy of the roman catholic church, to form a separate committee of the Royal institution for the exclusive regulation and superintendence of the roman catholic schools under the act of 1801. As there is every reason to hope that, under this arrangement, the number of such schools may be much increased, the governor in chief recommends to the assembly to augment the appropriation made for this purpose last year, under the above-mentioned act, to £3,000, which sum will cover all the salaries of school-masters, the allowances necessary to be made to the officers employed under the board in carrying the act into execution, and also the expense, not exceeding £100, for providing elementary books for schools, where they cannot be otherwise procured.

"The governor in chief, in recommending this liberal appropriation for the encouragement of schools in this province, views in it the happy accomplishment of hopes long disappointed, and all the advantages contemplated in the act of 1801; and therefore, relies with confidence, on the liberality of the assembly, to carry into effect this most important purpose. (Signed) "DALHOUSIE."

"Castle of Saint Lewis, Quebec, 13th Feb., 1827."

* "We are gratified in being able to allude, in a manner which we have no doubt will be deemed satisfactory, to a rumor which has

Addresses from various quarters were presented after the prorogation, and in course of

lately been circulated, to the following effect:—that it was the intention of his Majesty's government to possess itself of the right claimed by the ecclesiastics of the seminary, over the seminary and island of the city of Montreal, allowing an annuity or fixed pecuniary compensation, to that reverend society, in lieu of the same. The preliminary facts, which have led to the actual state of things as regards this matter, are few and simple. During the space of upwards of fifty years last past, the crown lawyers in Great Britain, and other learned persons in this colony, have uniformly advised his Majesty's government, that the claim of the ecclesiastics of the seminary of Montreal, to hold *Sulpicien* lands, that is, the seigniory of the island and city of Montreal, in mortmain, could not be sustained against the paramount rights of his Majesty—on two grounds—as not being themselves a lawful corporation, and as holding originally from a society resident in a foreign country. It is not our duty to enter at large into this question. Let it suffice to say, that the claims of his Majesty, though never enforced, have yet never been relinquished. They have remained merely in abeyance; nor is it likely that any steps to establish them would even *now* have been taken, had not such a course been imposed on his Majesty's government by circumstances, which render it imperative to obtain a decision of the legal question, in whom lies the title to the seigniory of Montreal—in the seminary or in the crown—Since the passing of the acts of the imperial parliament, relating to a change of tenure of seigniorial property to free and common soccage, several applications on the part of individuals, which may justly be considered as the forerunners of many more, have been made to the government of the province, praying a commutation of the tenure of property held by them at Montreal, in conformity to the provisions of the said acts. As these applications brought forward, in a direct and tangible shape, the question of the right of the crown in the seigniory of Montreal—a case having already occurred in a court of justice, where the defendant pleaded that right—it was thought necessary by the executive of the province to refer the matter to his Majesty's government at home.

"Such are the facts on which the rumor above alluded to has been founded. We can further state, on authentic information, that his Majesty's government, on a full consideration of the case, both in its past and present circumstances, being convinced of the necessity of bringing the matter to a decision one way or the other, has directed that the necessary legal measures be taken to bring the above question before the proper tribunals, in a spirit of the utmost fairness and in the most comprehensive manner, with a view to a solemn and final adjudication; but that whatever may be the result of this assertion of the abstract legal title of his Majesty, it is by no means designed to bar any claim which the ecclesiastics of the seminary may have on the good faith, justice, or liberality, of his Majesty's government, but that those claims will be considered with the most large and liberal regard."—*Quebec Gazette by Authority.*

the summer, expressive of a determination to uphold his excellency in the correct and constitutional views he entertained of the proceedings of the assembly.—One from the Eastern Townships, " lamented that the benevolent and enlightened views of his excellency for the improvement, peace and good government of this province have been in no inconsiderable degree frustrated for want of the concurrence and cordial co-operation of the lower house of parliament, who, instead of thinking no evil where none was intended, have not only wasted their time in asserting rights, which, in our humble opinion, were not endangered ; but, under that disguise, have assumed the right of appropriating and directing the application of the whole provincial revenue, thus setting at naught the authority of the king and imperial parliament over this part of the british empire.



" Deeply lamenting"—said they—" that the proceedings of the house of assembly have been such as to cause a suspension for a time, of all legislative measures, while so much important business remains untouched, we should appear wanting in duty to our country, wanting in proper feeling to the benevolent and paternal government of our gracious sovereign, and wanting in the most sincere sentiment of gratitude for the persevering but unavailing efforts of your excellency to promote the best interests of the province, did we not unite in assuring your excellency that we shall freely

Chap. XXVI. 1827. give our aid and influence in supporting whatever measures the wisdom of his Majesty's government may deem necessary to meet the present unhappy state of public affairs, and to avert the pernicious consequences of them in future."

It is impossible adequately to describe the seditious agitation in all quarters of Lower Canada, that followed the prorogation, and the absurd tales, improbable, palpable untruths resorted to by the agitators to excite the *habitants*, (for whom, in their credulity and implicit faith in their leaders, nothing could be too gross,) and beget a feeling of hatred against the government and towards the governor personally. He was represented as the most odious and oppressive of tyrants—he had, it was said, lawlessly interrupted the legislature in its work, and prevented the representatives of the people from passing good and salutary laws in progress at the prorogation—he was plundering the public treasury, and illegally helping himself and satellites to large sums, at the expense of the province, whose people "*la nation canadienne*" their religion, their language, and their laws he was opposed to, hated, and was endeavouring to subvert.—He was hoodwinking and deceiving the government at home, that he might the more easily enslave the people of the colony, whom it was said he would drive, if not speedily recalled, to a rebellion that would not fail to sweep away the little that remained of

of british power from the continent of North America—and in these extravagant imaginings several joined, of whom, knowing as they must have known the absurdity of those tales, better things were to have been expected. Chap. XXVI. 1827.

By the expiration of the militia laws, which the assembly had purposely omitted to renew, two old ordinances of the legislative council of the province of Quebec, of 1787 and 1789, for the regulation of the militia, and which the temporary militia acts had repealed, were revived, the repeal being in legal interpretation, as it was said, but temporary, and for the period only, to which the repealing acts themselves were limited, the legislature not having expressed in any of those acts its intention of an absolute repeal of the ordinances in question. The attorney general (Mr. James Stuart,) and other law officers of the crown being consulted were of opinion that the ordinances alluded to were now in force and the law of the land, it consequently became incumbent upon the governor, as a duty, to act upon them. Accordingly by a militia general order of the 5th July, "the governor in chief directed the commanding officers of the different battalions of militia, without waiting for more particular orders, to fix the days on which the companies of their respective battalions should meet according to law in that and the ensuing months." "The governor in chief"—it was observed—"thinks it right to express on this occasion his satisfaction at the ready obedience which has been

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shewn in all parts of the province, from which information has reached him, to the revived ordinances for regulating the militia, notwithstanding the arts used by designing and ill-disposed persons to infuse groundless doubts and suspicions into the minds of the people; and he trusts that the officers and men of the militia will continue to evince that spirit of zeal, obedience and subordination, which is the first of the military duties, and which has hitherto distinguished the militia of this province."*

The militia-men's duty, apart from their occasional obligations as a civil and constabulary force, as all in the least acquainted with Lower Canada know, was exceedingly light, in fact only nominal—to meet after divine service on a Sunday or other holiday, once a year, and answer to the call of their names, as an acknowledgment of obedience to the laws.—But faction would not allow even this. Several officers of the militia, partizans of the ruling agitators, in various quarters, pretending there were now no laws in in force regulating the militia, publicly dissuaded their militiamen from attending muster, haranguing them in terms of contempt and indignation against the existing administration, as inimical to the rights and interests of the

* The opinion of the attorney general was sustained by an unanimous judgment of the court of king's bench, at Quebec, chief justice Sewell and judges Kerr, Bowen and Taschereau present, in a case of Chasseur vs. Hamel, in which an issue at law had been raised in order to obtain a legal decision of the point.—*Quebec Mercury*, 24th June, 1828.

"*peuple canadien!*" and as essentially anti-canadian. What was to be done? The government had taken a position, on consultation of its legal advisers, which it behoved it to maintain. To yield to faction and to clamour would have been a betrayal of weakness that must soon have led to its disgrace and prostration. Several removals* from the militia took place, for encouraging and taking part in public meetings tending to excite the people to discontent, as well as from the magistracy, into which also party spirit had found its way and was not less active than in the militia, some of them probably rather precipitately upon hasty recommendations of partizans of the opposite school of politicians, but in most instances deservedly. The removals, however, did not arrest the spreading spirit. The dismissed were martyrs in the cause of freedom, of virtue, and of their country; and to be removed from the militia for disobedience to the militia law, or from the magistracy for agitation, perversion of duty, and contempt of the government, was an additional title to the public confidence. In general, however, the canadian, like the british militia, behaved well where left to their own good sense unwrought upon by agitators, consisting chiefly of country notaries, doctors, surveyors, briefless lawyers, and small fry of that description, having little or nothing at stake. In the Eastern Townships particularly, the militia distinguished themselves, in



* See general orders at the end of this chapter.

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many parts, by a regular attendance at drill and training, as did universally the british and those of that origin, throughout other parts of Canada.*

* "Office of the Adjutant General of Militia,
"Quebec, 12th Sept., 1827.

"General Order of Militia.

"His Excellency the Governor and Commander in Chief takes an early opportunity to express to the battalions of militia in Lower Canada, his sentiments on certain recent proceedings which nearly concern their loyalty and honor.

"It is well known that the laws under which the militia force has been regulated for many years, have been enacted for short periods, and have been repeatedly renewed as a substitute for the permanent laws passed in 1787 and 1789.

"These temporary acts, however, not having been renewed in the last session of the provincial parliament, expired on the 1st May; and it was immediately notified to the militia, by his excellency's directions, that under existing circumstances, the old permanent ordinances came into force.

"Evil disposed persons were not wanting to spread doubts upon the subject; and to these were added gross misrepresentations and calumnies regarding the intentions of the executive government, all tending to create discontent and dissatisfaction in the province, but more particularly to induce the militia to object against and disobey the orders issued under those ordinances for the usual musters in summer.

"The governor in chief has seen with great satisfaction that the utmost exertions of the ill-disposed have totally failed to disturb the natural disposition of the people to order and obedience. With very few exceptions, and those chiefly of officers holding commissions, the musters of July and August, have been unusually numerous and well attended. It is therefore an important and most agreeable duty to his excellency to offer his warmest acknowledgments in approbation of that conduct, by which the battalions of militia have shewn their proper sense of duty.

"But while the governor in chief thus gives the reward of praise where it is so well merited, he feels that his duty imperiously calls upon him, at this time, to deprive of the distinction of holding commissions in the militia, all such persons as have neglected to attend at the musters required by law, or who by their conduct or language at public meetings have failed in that respect which is due to the representative of the sovereign:—This, however, is a work of time and investigation, which, though necessarily attended with some delay, will not fail to receive his excellency's serious and deliberate consideration.

"By order of his excellency the governor general and commander. in-chief,

"F. VASSAL DE MONVIEL, Adjt.-Gen., M. F."

In July the Parliament was dissolved pursuant to instructions, it was believed from home, and a general election immedately took place, but the government was no better accommodated, nor more likely to fare better with the new assembly than it had with the previous body.*

Lord Dalhousie, from his first arrival in the country, had contemplated the erection of a suitable monument in Quebec, to the memory of Wolfe and Montcalm, and this generous purpose he now resolved to carry into effect.

The following notice on the subject appeared in the official Gazette in the month of August:—"PROPOSED TRIBUTE TO THE MEMORY OF WOLFE AND MONTCALM.—It has long been a matter of surprise and regret that there is not any public monument in Quebec, to record the glorious fall of Wolfe and

* The members returned to this the 13th parliament of Lower Canada, were:—Gaspé, R. Christie; County of Cornwallis, Jos. Robitaille and J. L. Borgia; County of Devon, J. B. Fortin and J. C. Letourneau; County of Hertford, F. Blanchet and N. Boissonnault; County of Dorchester, Louis Lagueux and Jos. Samson; County of Buckinghamshire, Louis Bourdages and J. B. Proulx; Borough of William Henry, Wolfred Nelson; County of Richelieu, Jean Dessaulles and R. de St. Ours; County of Bedford, H. de Rouville,; County of Surrey, Pierre Amiot and L. J. Papineau; County of Kent, D. B. Viger and F. A. Quesnel; County of Huntingdon, Austin Cuvillier and J. M. Raymond; East Ward of Montreal, Hughes Heney and J. Leslie; West Ward of Montreal, L. J. Papineau and Robt. Nelson; County of Montreal, Jos. Perrault and Jos. Valois; County of York, Jacques Labadie and J. B. Lefebvre; County of Effingham, O. Turgeon and A. Papineau; County of Leinster, Laurent Leroux and Julien Porier; County of St. Maurice, Pierre Bureau and Chas. Caron; Borough of Three Rivers, C. R. Ogden and P. B. Dumoulin; County of Hampshire, F. X. Larue and John Cannon; Upper Town of Quebec, A. Stuart and Vallieres de St. Réal; Lower Town of Quebec, Jean Belanger and T. A. Young; County of Quebec, John Neilson and Michel Clouet; County of Northumberland, M. P. De S. Laterrière and E. C. Lagueux; County of Orleans, François Quirouet,

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Montcalm. These feelings have prompted the governor in chief to propose for the consideration of the public, and the officers now serving under his command in the Canadas, a design for a column to be erected on the Place d'Armes, in front of the Château St. Louis. This design may be seen at the garrison library, where the librarian has instructions to admit any gentleman who may wish to inspect it. The governor in chief forbears to say more on the subject than that he will pay every attention to suggestions that may be sent to him, and will give all the assistance and encouragement in his power to this interesting public work." Subscriptions were immediately made to a liberal amount, and the foundation of the monument was accordingly laid, on the 15th of November, in presence of his excellency attended by his staff and the troops in garrison under arms, not in the *Place d'Armes* as at first proposed, but within the gate (some sixty feet in front of its present position.) of the lower garden of the Castle, whence the site was changed, in prosecuting the work the ensuing spring, to the spot where it now stands. The erection (without the marble tablets, furnished wholly at the expense of Lord Dalhousie,) cost one thousand pounds, currency, less a few shillings, a considerable part of which was contributed by the governor in chief himself, the rest by the military, and british inhabitants of Quebec, and but a very small portion it was remarked, by french canadian gen-

tlemen, few of whom, except of the official class, giving any thing towards it, and these but little. This interesting monument, honorable to Lord Dalhousie, the army, and british community of Quebec, was finished in the summer of 1828, his lordship's nephew, captain Maule, of the 79th Highlanders, (now, 1849, secretary at war,) in presence of the governor in chief and the troops of the garrison, and a vast concourse of citizens assembled on the occasion to witness the ceremony, placing, as his excellency's proxy, the capping-stone or climax upon it, the day of his embarcation for England, (8th September, 1828,) on his recall from this government to the military command in India.*



* The follówing description of the interesting ceremony of laying the foundation of this monument is taken from the *Quebec Mercury* of 20th November, 1827:—

"Shortly before 11 o'clock in the morning, the troops, in garrison, marched from their respective barracks and formed a line on the street which separates the upper from the lower garden of the Chateau, their right resting on the foot of the Citadel Glacis, and their left nearly opposite to the Chateau, they then opened their ranks and facing inwards formed a lane.

"The grand lodge of masons, with the right worshipful grand master (Claude Denechau, Esq.,) at their head, the merchants and freres du Canada, the Sussex and the St. Andrew's lodges, the officers composing the grand lodge and the brethren being in full masonic costume, walked in procession to the Chateau, preceded by the band of the 66th regiment, playing a masonic march, and passing through the court, entered the garden, and lined the advances to the spot where the preparations had been made for the purpose which called their attendance.

"The countess of Dalhousie shortly after made her appearance in the garden, with the honble. lady Hill, the honble. Mrs. Gore, Mrs. Sewell and a large party of fashionables, and passed through the lines of masons to the platform of the battery; almost at the same moment his excellency the governor in chief, accompanied by the lord bishop of Quebec and the chief justice, the committee of superintendence and many other gentlemen, and attended by the officers of the general and personal staff, having passed through the lane formed by the

Chap. XXVI. 1827. The New parliament was summoned for the 20th November, a period looked forward to with intense interest, particularly as it was

troops, entered the garden gate facing the spot selected for the site of the monument, and descending the steps, joined the countess of Dalhousie, whom he conducted, accompanied by her ladyship's friends, to a situation commanding a view of the ceremonies to take place.

"Every thing being now in readiness, his excellency placed himself in front of the stone and spoke as follows:—

"Gentlemen of the committee, we are assembled upon an occasion most interesting to this country—if possible more so to this city.—We are met to lay the foundation of a column in honor of two illustrious men, whose deeds and whose fall have immortalized their own names and placed Quebec in the rank of cities famous in the history of the world.

"Before, however, we touch the first stone, let us implore the blessing of Almighty God upon our intended work.

"The Revd. Dr. Mills, chaplain to the forces, then offered up a prayer.

The prayer concluded, his excellency thus addressed the masonic brethren:—

"Right worshipful grand master and worshipful brethren of the grand lodge, I crave your assistance in performing masonic ceremonies and honors on this occasion.

"The R. W. grand master, C. Denechau, supported by the R. W. Dy. G. Mr. Oliva, on his right, and P. Dy. G. Mr. Thompson on his left, with two grand deacons took his station on the east side of the foundation. The Rt. W. the grand masters and Rt. W. the grand chaplain placed themselves on the opposite side, then the corner stone was lowered and laid with the usual masonic ceremony—the grand master, supported as above described, advanced towards his lordship to give the three mystic strokes, on the stone. During this part of the ceremony—the grand master repeated the following short prayer,—"May this undertaking prosper with the blessing of Almighty God.

"The part of the ceremony which now followed derived peculiar interest from the presence of Mr. JamesThompson,one of the few survivors (supposed to be the only man in Canada) of that gallant army which served under Wolfe, on the memorable 13th Sept ,1759. This venerable mason, in the 95th year of his age, walked with the party which accompanied the earl, and stood near his lordship, leaning on the arm of captain Young, of the 79th Highlanders, the officer whose pencil produced the chaste and appropriate design which has been adopted for the monument. His lordship called upon the patriarch to assist in the ceremony in these words:—

"Mr. Thompson—We honor you here as the companion in arms and a venerable living witness of the fall of Wolfe; do us also the favour to bear witness on this occasion by the mallet in your hand.—

questionable whether in case Mr. Papineau should be rechosen speaker of the assembly, the choice would meet with his excellency's concurrence. That gentleman had, after the late prorogation conjointly with seven others,* members of the assembly, issued a paper or manifesto on public matters, in which he so strongly animadverted upon the governor personally, and had, on other occasions as well as that, par-



Mr. Thompson then, with a firm hand, gave the three mystic strokes with the mallet on the stone. An appropriate prayer was then pronounced by Dr. Harkness, the provincial grand chaplain.

"Then capt. Melhuish, of the royal engineers, having deposited gold, silver and copper coins of the present reign, in a cavity prepared on the upper face of the stone for their reception, the pieces were covered by a brass plate bearing a suitable inscription, which was rivetted to the stone.

"The ceremony concluded by the troops, under the command of col. Nicol, (66th regt.) firing a *feu de joie*, after which they presented arms, the bands playing God save the king.—After the third volley, three hearty british cheers were given, and the troops in returning to the barracks, passed his lordship in review order on the Place d'Armes.

"The change which has been made in the situation chosen for the monument it is now generally admitted, displays good taste. On the Place d'Armes it would have been, in a great measure, lost; but, on the spot where it is to be erected it will be a prominent object, visible from the opposite shore, from the Island of Orleans, and from the river, whilst the terrace on which it is to stand, and which, as has been already stated, will be as open to the public as the street itself, overlooks the basin and its surrounding scenery, presenting particularly in summer time, when the port is full of shipping, a view which, for animation and beauty, is hardly to be surpassed."

Of the following legends, inscribed on the two marble tablets, sent from England by lord Dalhousie, one inserted in the sarcophagus or cenotaph, the other in the pedestal or basement of this unpretending but elegant monument, (an obelisk) the first is from the chaste and classic pen of J. C. Fisher, Esq., L. L. D., and the second from that of the late Revd. Doctor Mills, chaplain to the forces, at Quebec. The immortal name of WOLFE stands conspicuous and alone in prominent letters of bronze, on the southern aspect of the cenotaph, looking in the direction of Wolfe's Cove, whence on land-

* Messrs. Hughes Heney, J. Leslie, Joseph Valois, Jos. Perrault, Austin Cuvillier, J. M. Raymond, and F. A. Quesnel.

Chap. XXVI. 1827. ticularly in an address to his constituency, after his reelection, expressed his disrespect towards him so pointedly, that it was thought next to impossible that his excellency could feign ignorance or overlook the affront. It was presumed that, however disposed he were to disregard any invective directed against himself individually, he owed it to the position he occupied of representative of the sovereign, to resent the insults offered him by the person who had occupied the elevated post of speaker to the assembly, and, by rejecting him on this occasion from the speakership, preclude all further intercourse with him in that capacity.

On the meeting of the assembly, Mr. Papineau being chosen speaker, by a large majority

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ing in the night previous to his victory he, at the head of his warriors, ascended the heights to Abraham's Plains, the seat of his victory and fall, on the 13th September, 1759—and that of the brave and generous MONTCALM, in the like letters of bronze, and equally conspicuous on the northern aspect:—

MORTEM. VIRTVS. COMMVNEM.
FAMAM. HISTORIA.
MONVMENTVM. POSTERITAS.
DEDIT.

HUJUSCE
MONUMENTI IN VIRORUM ILLUSTRIUM,
WOLFE ET MONTCALM,
FUNDAMENTUM P. C.
*GEORGIUS COMES DE DALHOUSIE;*
IN SEPTENTRIONALIS AMERICÆ PARTIBUS
SUMMAM RERUM ADMINISTRANS;
OPUS PER MULTOS ANNOS PRÆTERMISSUM,
QUID DUCI EGREGIO CONVENIENTIUS?
AUCTORITATE PROMOVENS, EXEMPLO STIMULANS,
MUNIFICENTIA FOVENS.
DIE NOVEMBRIS XV.
A. D. MDCCCXXVII.
GEORGIO IV. BRITANNIARUM REGE.

(41 to 5) over Mr. Vallières, who, contrary to his wishes had been put in nomination, the house went up at the time appointed by the governor for receiving the speaker elect, who, with the usual formalities having announced that the choice of the house had fallen upon him, was informed by the speaker of the legislative council, that his excellency the governor in chief "doth not approve of the choice the assembly have made of a speaker, and in his Majesty's name his excellency doth accordingly now disallow, and discharge the said choice. Adding—"and it is his excellency's pleasure that you, gentlemen of the assembly, do forthwith again repair to the place where the sittings of the assembly are usually held, and there make choice of another person to be your speaker, and that you present the person who shall be so chosen to his excellency on Friday next, (23d Nov.) at two o'clock, for his excellency's approbation."



The members having returned to the usual place of sitting, the doors of the house were thrown open, and ingress allowed to the public during their deliberations on this important matter.—Much excitement, as may be imagined, prevailed. One, a member of distinction, maintained "that the person administering the government could not, by his disallowance of their choice of a speaker, annul that choice—that the allowance of their choice of speaker, was a mere form—that he thought the house competent to proceed to the despatch of busi-

Chap. XXVI. 1827. ness, without the concurrence of the governor in its choice."—Another, "that the house was competent, and business must now go on, until a prorogation should take place."—A third, that "it was important to ascertain the king's prerogative in the matter, and that he would rather forfeit his life than interfere with it,"—that "it was also equally important to ascertain their own privileges, and that he would also then as soon lose his life as forego them." A fourth proposed a series of resolutions on the subject, which were postponed, however, until the next day, and the house adjourned in a feeling more easily to be imagined than expressed.

The members met in the forenoon of the ensuing day, and after some discussion the following resolutions were adopted by a large majority (39 to 4.)* In addition to these an

* Resolved, 1. That it is necessary for the discharge of the duties imposed upon this house, viz: to give its advice to his majesty, in the enactment of laws for the peace, welfare and good government of the province, conformably to the act of the british parliament, under which it is constituted and assembled, that its speaker be a person of its free choice, independently of the will and pleasure of the person entrusted by his Majesty, with the administration of the local government for the time being.

2. That Louis Joseph Papineau, esquire, one of the members of this house, who has served as speaker in six successive parliaments, has been duly chosen by this house to be its speaker in the present parliament.

3. That the act of the british parliament under which this house is constituted and assembled, doee not require the approval of such person so chosen as speaker, by the person administering the government of the province in the name of his Majesty.

4. That the presenting of the person so elected as speaker, to the king's representative for approval is founded on usage only, and that such approval is and hath always been a matter of course.

5. That this house doth persist in its choice, and that the said Louis Joseph Papineau, esquire, ought to be and is its speaker.

address, in imitation of one to Charles the second on a similar occasion, was immediately proposed and voted to his excellency, stating with other matters,—" that Mr. Papineau had been duly elected and chosen speaker in consideration of his great ability and fitness, of which they had had experience during several parliaments, and had been presented by them to his excellency as a person worthy of their confidence, and who they conceived would be agreeable to his excellency; for which reasons they humbly hoped his excellency, after having considered the old precedents, would be pleased to remain satisfied with their proceedings, and not deprive them of the services of the said Louis Joseph Papineau, as their speaker, but that his excellency would be pleased to give them a favorable answer, such as his Majesty and his royal predecessors had ever given to their faithful commons in such case, in order that they might be enabled to proceed, without further delay, to the despatch of the important and arduous affairs for which they were convoked, in which they hoped to give convincing proofs of their affection for the king's service, and of their solicitude for the peace and welfare of the province." Five messengers were named to carry up the address. One of these gentlemen on going up to the castle of St. Lewis, to ascertain when his excellency would be pleased to receive them with the address, was informed, in answer, by the civil secre-

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tary that neither address nor message relating to an address would be received until the house had chosen its speaker. This being immediately reported to the messengers they, in order to acquit themselves of their charge, forthwith went up together to the castle, and requesting access to the governor, were there upon informed in the same terms as one of their number already had been, of his excellency's determination, and they accordingly withdrew. These proceedings, of course, put an end to the matter, and there being no longer the least prospect of a compromise, or any arrangement that would admit of a session, in which the despatch of business would be attended to, his excellency issued on the same evening (23th Nov.) a proclamation proroguing the parliament, and the members accordingly went home but little satisfied, it may be supposed, at the result of their meeting.

A public meeting was soon after the prorogation held at Montreal, at which strong resolutions were adopted approving of the governor's course, and an address was framed upon them to his excellency. It was resolved "that in the opinion of this meeting, his excellency the governor in chief, under such trying and unprecedented circumstances, acted with a wisdom and firmness becoming his high character, and with a proper regard to the rights and dignity of the crown, and the welfare of the inhabitants of this province, in asserting his Majesty's prerogative and in proroguing the pro-

vincial parliament, a measure which, whatever temporary inconvenience may arise from it, was the only one which his excellency could consistently adopt without compromising those recognized rights, in the maintenance of which the inhabitants of this province are very deeply interested.—That it is proper and highly expedient that this meeting should vote an address to his excellency the governor in chief, expressive of their heartfelt thanks to his excellency for having so maintained unimpaired the rights of the crown and the best interests of the people, which are, and ought to be inseparably connected." The address, very numerously signed, was soon after presented to the governor in chief at Quebec. 

The example of Montreal was followed by a meeting held at the exchange in Quebec, of merchants and others favorable to the governor in chief. It was resolved as the opinion of this meeting, " that the public conduct of the person elected speaker of the assembly at the late meeting of the provincial parliament, afforded sufficient grounds for the disallowance of his election; and that the exercise of that office by him was incompatible with the good understanding which ought to subsist between the assembly and the other branches of the legislature. And furthermore, that his excellency be solicited to make such representations to his Majesty's government as will call for immediate inquiry, in order that a remedy may be applied to the existing difficulties—and that an

Chap. XXVI. 1827. address founded upon the resolutions be presented to his excellency," which accordingly was done.

Three Rivers, William Henry, Laprairie, Chambly, St. Phillippe, Terrebonne, Drummondville, Nicolet, Berthier, Shipton and the eastern townships universally, New Glasgow, part of the county of Effingham, and the inhabitants of Glengary in Upper Canada, and various other settlements presented addresses in like manner. But the opposition and their adherents were not less active and determined. Meetings were held at Quebec and Montreal about the same time, at which resolutions were passed expressive of grievances, and a determination was adopted to petition the king and parliament of the United Kingdom on the state of affairs in Canada. Committees of management were appointed to obtain signatures, and to make the necessary collections for defraying the expenses of sending delegates to England with the representations and complaints of the people against the governor in chief personally, and his administration of the provincial government.

The acrimonious discussions in the public prints, to which the events we are tracing gave rise occasioned, at the following criminal assises at Quebec, Montreal and Three Rivers, several crown prosecutions for libels upon the governor, which will be noticed in their turn.

The roman catholic clergy took no active or apparent part in these demonstrations, either

in support of, or in hostility to lord Dalhousie personally, discreetly professing a neutral policy, unwilling, it was said, to involve themselves in the political squabbles of the day; but there can be little, if any doubt, that they partook of the feeling which actuated the universality of their compatriots of french origin; at least such at the time was the public belief. Chap. XXVI. 1827.

The Rideau Canal was this summer commenced, as a work at the expense of the imperial treasury, undertaken, it was said, at the suggestion of the earl of Dalhousie.* His excellency, on a visit to the Ottawa and Rideau, at the beginning of October, laid the foundation stone of the lowest lock of it, in Bytown, at the entry of the Canal. A commissioner (Mr. Felton,) for the sale of crown lands in Lower Canada, was appointed in December of the present year, the government at home having determined to discontinue the old system of free grants of the waste lands, which had become exceedingly abusive, having given rise to extensive monopolies in the various townships of Lower Canada, as well as in the Upper Province, highly prejudicial to settlers and to the settlement of the country. The first publication on this subject that appeared in the papers bore date "Executive Council Office, 18th Decr., 1827," explanatory of the new system.

* We find, however, in an answer from lord Dalhousie, to an address presented to him on this occasion, dated at Hull, (on the Ottawa,) 1st October, 1827, by the inhabitants, the following passage, frankly disclaiming the merit attributed to him in this matter:—"As to "the merit you would give me as originating these great operations,

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The militia general orders, at the end of this chapter, previously alluded to, mention some of those gentlemen whom, on account of their agitation against the government, lord Dalhousie deemed it necessary to deprive of their commissions, with the causes thereof. Sir James Kempt, his lordship's successor, however, reinstated them all in their rank, with the view to pacify them, and conciliate the country. Several of these gentlemen, nevertheless, subsequently renewed the excitement which they had contributed at this period to raise, and were active in the rebellions, and some of them taken in arms were exiled. These, however, were not only afterwards pardoned, permitted to return home and to enjoy their civil rights, but some of them have been appointed to even lucrative offices under the crown as an indemnity, it would seem, for the disappointment experienced in those rebellions, or for the discomfort they may have suffered in consequence thereof; while others of the same school of politicians, more lucky than their comrades, drew prizes in the political lottery before the outbreak, and were seated in high places, not excepting the judg-

" I am not entitled to it. These are the well considered measures of " his Majesty's ministers. I only give effect to their views and gene- " rous policy towards the Canadas." It may, with propriety, be also here mentioned, that those durable and magnificent works on the Cape of Quebec, known as the Citadel, including the walls, officers'-barracks, casemate-barracks and glacis, were constructed during lord Dalhousie's administration in Canada; nor ought we to omit stating that the Rideau canal was commenced, carried on and finished under the superintendence of lieut.-col. John By of the royal engineers, from whom Bytown takes its name.

ment seat, on its occurrence. Such is the british government. Above resentment, but not always very consistent—towards its traducers forgiving even to weakness, if not to a vice—discarding faithful and approved servants, to make room for open and avowed enemies, in the false policy of propitiating them. A policy too characteristic of the government in Canada—subversive of the public confidence, and subjecting it the imputation of faithlessnes,—derogatory, in fact, to the honor and integrity of the british character.



The inhabitants of Quebec and Montreal, adopted at public meetings, shortly before the late assembling of the legislature, resolutions expressive of their desire to be incorporated, that they might thereby be enabled to provide for their own municipal government, which had heretofore been under such magistrates appointed by the crown, as resided in those cities.

A movement was made towards the close of the present year, by the ministers and members of the Presbyterian churches, in Montreal and Quebec, towards obtaining a participation in the protestant clergy reserves. Their application to the home government succeeded, the judges in England pronouncing in favour of the presbyterian, as a protestant clergy, within the meaning of the constitutional act authorizing the clergy reserves in the Canadas. As their proceedings may be interesting to members of the kirk of Scotland, we

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record them and the names of those who participated therein.*

* "At a meeting of the general committee appointed by the two Presbyterian Churches, in the city of Montreal, held at the St. Andrew's church, on the 3d December, it was resolved,

1. "That inasmuch as the presbyterians residing in Upper and Lower Canada, form a numerous and respectable body; and inasmuch as a large proportion of the protestant emigrants yearly arriving in these provinces from Scotland, Ireland, and the United States of America, are of that persuasion, and attached to the presbyterian faith, worship and church government: It is a matter of the deepest regret that no effectual provision has yet been made for the religious instruction, and for preserving the moral habits of this numerous and rapidly increasing portion of our population.

2. "That the want of pastors and teachers of their own persuasion, operates as a great discouragement to the presbyterian settlers, who, from the inevitable difficulties of their situation, are unable to provide means for the support of their churches or schools, without aid from government; in consequence of this, not only is incalculable injury done to these colonies in a moral and religious point of view, but the progress of the new settlements, and the general prosperity of the country, are greatly retarded.

3. "That it is also a matter of regret that so numerous and respectable a portion of the inhabitants of these provinces, have never yet, in a collective capacity, represented their just claims to the imperial parliament.

4. "That while we feel every confidence that his Majesty's ministers, guided by the maxims of an enlightened and liberal policy, are disposed to promote every measure, which has for its object, the moral and religious instruction of his Majesty's subjects, we have reason to fear that active means have been employed to impress them with a belief, that the proportion of the Presbyterian population in these provinces is altogether inconsiderable, in comparison with those who are attached to the church of England.

5. "That it is the opinion of this committee that the presbyterians are entitled to participate in the revenue arising from the lands set apart for the support of a protestant clergy, by and under the act passed in the 31st year of his late Majesty.

6. "That regarding the present as a most important crisis, which may determine, perhaps finally, the momentous question involving the moral and religious interests of this large and respectable portion of the inhabitants of these colonies—this committee feel it an imperious duty, which they owe to themselves, to the country, and to posterity, to take immediate measures to represent their claims to the imperial parliament, in order to obtain the required assistance and relief.

7. "That a respectful petition, to be signed as generally as possible, by the presbyterian inhabitants of Upper and Lower Canada, be presented to the imperial parliament, praying that such portion of the

revenue arising from the clergy reserves (as in the wisdom of the said parliament may be deemed equitable) be appropriated for the support of the presbyterian church in these provinces; and also, that such further temporary provision and assistance, be made as may be requisite, until the said lands shall produce a revenue sufficient for the object contemplated by the said act.

8. "That in the present crisis, it is expedient, for the purpose of representing to his Majesty's government the claims of the presbyterians in the Canadas, that an agent be sent to Great Britain with all possible expedition.

9. "That a general subscription be opened forthwith, for the purpose of raising funds to defray the necessary expenses that may be incurred in carrying the above resolutions into effect.

10. "That, for the attainment of these objects, it is advisable that our brethren in this and the sister province, be respectfully solicited to co-operate with us, and that means be instantly adopted to procure their co-operation.

11. "That the Rev. Messrs. Mathieson, Somerville, Black, Esson, Gale, John Boston and J. C. Grant, Esqrs., constitute a sub-committee; and that they be authorized to transmit the foregoing resolutions, accompanied with a circular explanatory of the object, and soliciting the concurrence and aid of their presbyterian brethren in the two provinces, and adopt such other measures as may by them be deemed requisite to give effect to the general views of the committee."

"And at a meeting of the said committee, held on the 10th December instant, and composed of the following persons:—

The Rev. A. MATHIESON, chairman.
JOHN BOSTON, esq., secretary.

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|---|---|---|
| Rev. J. Somerville, | E. Black, | H. Esson, |
| A. Gale, | Chs. Bowman, | Adam L. Macnider, |
| A. Ogilvie. | | |
| The Hon. Louis Gugy, | Dr. Campbell, | Dr. Stephenson, |
| Dr. Caldwell, | Dr. Robertson, | W. Gray, |
| W. Douglass, | Robt. Simpson, | James Henry, |
| Jn. M'Taggart, | | |
| Messrs. G. Garden, | Thos. Porteous, | Thos. Blackwood, |
| Horatio Gates, | R. Armour, | Jas. C. Grant, |
| John McKenzie, | John Frothingham, | Peter M'Gill, |
| Jn. Flemming, | James Carswell, | James Leslie, |
| C. Sweeny, | J. T. Barrett, | H. Brodie, |
| W. Smith, | W. Blackwood, | James Scott, |
| A. Ferguson, | Wm. Peddie, | J. Smith, |
| J. M. Cairns, | C. Sweeny, jnr., | |

"Resolved, 1. That it is the opinion of this committee, that there is no essential difference of opinion among the presbyterians in these provinces of Upper and Lower Canada, with respect to doctrine, worship, or church government; and that any shades of difference which may have divided them in the parent country are, in these colonies in a great measure removed.

2. "That, therefore, it is the opinion of this committee, that a letter should be immediately written, in its name, to Dr. Lee, as Con-

vener of the committee appointed by the general assembly of our church to promote the interests of the presbyterian churches in Canada, respectfully and earnestly impressing on the immediate attention of the committee the importance of promoting union among the presbyterians of these provinces, by receiving into communion such ministers, not already in communion with the church of Scotland, as may be found qualified by character and education, and at the same time may be disposed to form a connection with the said church.

3. " That letters be addressed forthwith to those presbyterian ministers who are not in immediate connection with us, to express to them and their congregations the sentiments and views of the committee on this subject, and to invite them to co-operate with us in our endeavours to obtain a suitable provision for the permanent support and maintenance of our common faith and worship.

4. " That the resolutions of this committee of the 3d December, and the above resolutions of this day, be inserted in the public papers for general information.

" JOHN BOSTON, secretary."

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" At a meeting of the heads of families of St. Andrew's church, Quebec, held in the church, on Monday the 17th December, 1827:—

JAMES ROSS, Esq., in the chair.

" It was resolved, 1. That we do highly approve of, and concur in the resolutions passed at the meeting of the general committee appointed by the two presbyterian churches in the city of Montreal, held at St. Andrew's church, on the 3d and 10th inst.

2. " That the Rev. Dr. Harkness, Rev. Mr. Wilkie, and Messrs. R. Paterson, James Ross, Wm. Finlay, A. Moir, A. Simpson, J. McNider, W. Torrance, A. Ferguson, Dr. Morrin, Dr. Bone, D. I. H., C. A. Holt, J. Anderson, J. Bell, J. Spence, A. Badenoch, J. Whitney, L. T. McPherson, J. Clearihue, J. Gibb, R. Shaw, Dr. Caldwell, Major Van Cortlandt, F. Hunter, J. Neilson, Capt. Jarvie, Dr. Hall, A. C. Montgomerie, C. Smith, C. G. Stewart, A. Morrison, W. Miller, Thos. Cringan, and John Alexander, do constitute a committee for corresponding with the Montreal committee, and for adopting such other measures as to them may seem best calculated speedily to accomplish the objects contemplated in the said resolutions.

3. " That the Rev. Dr. Harkness, Rev. Dr. Wilkie, Messrs. R. Paterson, W. Finlay, C. A. Holt, A. Moir, Dr. Morrin, J. Anderson, W Torrance, R. Shaw, J. McNider, A. Simpson, James Gibb and John Neilson, do constitute a sub-committee with power to add to their number.

4. " That the foregoing resolutions be published in the newspapers of this city. A. SIMPSON, secretary.

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The following are the general orders referred to in page 135:—

" Office of the Adjutant General of Militia,

" Quebec, the 12th July, 1827.

" General Order of Militia.

" The adjutant-general of militia is commanded to convey to lieut.-col. Dumont, of the 1st battalion of the county of York, the

thanks of the governor-in-chief for the notice he has taken, and the report which he has with great propriety made, of the conduct of certain officers under his command, in encouraging and taking part in public meetings, tending to excite the people to discontent. This instance of his loyal and faithful performance of his duty to his king and country, merits the entire approbation of his excellency.

" The officers hereafter named are hereby notified that the governor-in-chief, by virtue of the powers vested in him as his Majesty's representative, hereby cancels all the commissions they held as officers of militia, and he directs that those persons individually be enrolled as private militiamen.

" Lieut.-col. Dumont will immediately recommend officers for the vacancies so made.

" 1st battalion of the county of York.—Names of the officers whose commissions are cancelled: —

" Major Ignace Raizenne; captains Louis Dumouchelle, J. Bte. Dumouchelle, Jacob Barcelo, J. Bte. Fêré, A. Berthelot, John Hetier; lieut. William Scott; Dr. Jacques Labrie, (formerly surgeon in the embodied militia.)

" By order of his excellency the governor general and commander in chief,

" F. Vassal De Monviel, adjt.-gen., M. F."

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" Office of the Adjutant General of Militia,
" Quebec, 16th July, 1827.

" General Order of Militia.

" His excellency the governor and commander in chief having found cause to disapprove of the conduct of the undernamed officers of militia, in the reviews of last summer, directs that they shall be placed on the list of retired and supernumerary officers, viz:

" Lieut.-col. Jean Marie Mondelet, and major Dominique Mondelet, of the 5th battalion of the county of Montreal.

" Lieut.-colonel Joseph Bresse of the 2d battalion of the county of Kent.

" By order of his excellency the governor general and commander in chief.

" F. Vassal De Monviel, adjt.-gen., M. F."

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" Office of the Adjutant General of Militia,
" Quebec, 19th July, 1827.

" General Order of Militia.

" The governor general and commander in chief, considers it his duty to signify unto the officers hereinafter named, that his Majesty having no further occasion for their services, his excellency recalls and annuls the commissions which they respectively held in the militia, to wit:—

" Lieut.-col. Louis Bourdages, of the 2d battalion of the county of Richelieu, major Vallières de St. Réal, of the 4th battalion of the county of Quebec; captains Jos. Delorier, Clement Hudon dit Beaulieu, and J B. Ouellette, of the 1st battalion of the county of Cornwallis; lieut. Abraham Larue, of the 2d battalion of the county of

Devon and major Hyacinthe St. Germain, of the 1st battalion of the county of York.

"By order of his excellency the governor general and commander in chief,

"F. VASSAL DE MONVIEL, adjt.-gen., M. F."

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"Office of the Adjutant General of Militia,
"12th December, 1827.

"General Order of Militia.

"The governor in chief having for some time past occupied himself in considering the reports of reviews by officers commanding battalions of militia, has great satisfaction in again expressing his approbation of the general disposition, and orderly conduct of this great national force. The reviews have been fully attended, and there are but few instances in which the governor in chief could think it at all necessary to express censure. His excellency therefore conveys to all and to each battalion his thanks for their conduct, trusting that next summer, he shall find no cause to repeat the only disagreeable part of the duty which remains for him to perform—that is, to publish the names of those officers who can offer no sufficient apology for their neglect of duty and absence from muster.

"The governor in chief further desires it to be understood that where the commissions are noted as "cancelled," the conduct of the officers has not only been negligent, but has tended to induce the militiamen to refuse obedience to orders.

"The commissions of the following officers are hereby cancelled: ensign L. Moquin, 4th battalion, Huntingdon; captain H. Heney, 3d battalion, Montreal; Nicholas Brouillet, Etienne Frichette, Louis Gareau, Joseph Demers, 2d battalion of Kent; ensign Pepin 3d battalion, Buckinghamshire; captains Auguste Quesnel, L. J. Papineau, J. R. Rolland, L M. Viger, F. Roy, 2d battalion, Montreal; lieut. and aide-major S. Neilson, 4th battalion, Quebec; ensign J. B. Têtu, 2d battalion, Devon.

"By order of his excellency the governor in chief,

"F. VASSAL DE MONVIEL, adjt.-gen., M. F."

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In the biographical notice of the late lord bishop of Quebec, the right reverend Jacob Mountain, D. D., mention is made (see the foot note, page 82, of this volume,) of the state of the church of England in the Canadas at the time of his decease, (1825). The following memorandum, from an authentic source, will give the reader an idea of the progress made by the establishment, from that to the present time, August 1849:—

In Upper Canada, now constituting the diocese of Toronto—number of Clergymen officiating, 140.

In Lower Canada, (Diocese of Quebec) number of Clergymen, 78.

ERRATUM.—For cheerful "*ability*," in the 25th line of the foot note, (same biographical notice) page 78, read cheerful "affability."

# CHAPTER XXVII.

Petitions of grievances from Montreal and Quebec—deputation to England—deputation of Mr. Gale with petition from the Eastern Townships—petitions laid before the imperial parliament and referred to a select committee—lord Dalhousie notified of his appointment to India—new commission of the peace and dismissal of several magistrates—indictments for libels on the governor—reformation of militia in Quebec and Montreal—debates in house of commons on canadian petitions—Sir James Kempt, lieut.-governor of Nova Scotia to succeed lord Dalhousie—arrives—assumes the government—entertainments to the governor-in-chief—and addresses previous to his departure—character of lord Dalhousie—report of Canada committee—exploration of the Saguenay—various matters.



GREAT activity and considerable deception also, it was said, were displayed in procuring signatures and crosses from the well-meaning but uninformed *habitants* and others, to the grievance petitions and in raising the necessary funds.*

* The following will explain the grievances:—

TO THE KING'S MOST EXCELLENT MAJESTY.

"May it please your Majesty,

"We, your Majesty's faithful and loyal subjects inhabitants of your province of Lower Canada, most humbly supplicate your Majesty to receive graciously this our humble petition, which we now lay at the foot of your imperial throne, with hearts full of gratitude and inviolable attachment to your august person and your Majesty's paternal government.

"Amongst the numerous benefits for which the inhabitants of Lower Canada are indebted to your Majesty's government, there is none that they more highly prize, than the invaluable Constitution

Mr. John Neilson, of Quebec, and Messrs, D. B. Viger and Austin Cuvillier, of Montreal,

1828.

granted to this province by the act of the parliament of Great Britain, passed in the thirty-first year of the reign of our beloved sovereign, your august father of ever revered memory.

"Called by that act to the full enjoyment of british constitutional liberty, and become the depositaries of our own rights under the protection of the mother country, we contracted the solemn obligation of preserving inviolate this sacred deposit, and transmitting it to our descendants, such as it was confided to us by the great men who then presided over the destinies of your powerful and glorious empire.

"Deeply impressed with a sense of this obligation, alarmed by the abuses which have crept into the administration of the government of this province, and suffering under the evils which weigh on its inhabitants, we entertained an anxious hope that the house of assembly in the session of the provincial parliament called for the despatch of business on the twentieth of November last, would take into consideration the state of the province, and adopt efficacious measures to obtain the remedy and removal of those abuses and evils. We had a sure reliance on the well-tried loyalty and disinterested zeal of our representatives, but we have had the mortification of seeing our hopes frustrated by the refusal, on the part of his excellency the governor-in-chief to approve of the speaker elected by the assembly, and by the proclamation of the twenty-second of the same month of November, proroguing the provincial parliament. In these circumstances, deprived of the services of our representatives, suffering under great evils, and threatened with others still greater, we humbly implore the protection of your Majesty, the source of all grace and of all justice.

"The enlightened and patriotic statesmen who devised our constitutional act, and the british parliament by which it was granted, intended to bestow on us a mixed government, modelled on the constitution of the parent state; the opinions publicly expressed at the time in parliament, and the act itself, record the beneficent views of the imperial legislature; a governor, a legislative council, and an assembly were to form three distinct and independent branches, representing the king, the lords, and the commons; but the true spirit of that fundamental law has not been observed in the composition of the legislative council; for the majority of its members consisting of persons whose principal resources for the support of themselves and of their families, are the salaries, emoluments, and fees derived from offices which they hold during pleasure, they are interested in maintaining and increasing the salaries, emoluments and fees of public officers paid by the people, and also in supporting divers abuses favorable to persons holding offices. The legislative council, by these means, is in effect the executive power, under a different name, and the provincial legislature is in truth reduced to two branches, a governor and an assembly; leaving the province without the benefit of the intermediate branch as intended by the aforesaid act; and from this first and capital abuse, have resulted, and still continue to result, a multitude of abuses, and the impossibility of procuring a remedy.

were delegated to England, as bearers of the petitions, whither they accordingly proceeded

"We acknowledge that the legislative council ought to be independent, and if it were, we should not be entitled to complain to your Majesty of the repeated refusals of that branch to proceed upon various bills sent up by the assembly, however useful and even indispensable they might be; but considering these refusals as the natural result of the composition of that body, and of the state of dependence in which the majority of its members are placed, we are compelled to consider its acts as the acts of the executive government; and we most humbly represent to your Majesty, that the legislative council of this province, the majority of which is composed of executive councillors, judges and other persons dependent on the executive, have, year after year, rejected such bills, refused and neglected to proceed on several other bills sent up by the assembly, for the remedy of abuses, for encouraging education, promoting the general convenience of the subject, the improvement of the country, for increasing the security of persons and property, and furthering the common welfare and prosperity of the province, particularly:—

"Various annual bills granting the necessary sums for all the expenses of the civil government of the province, but regulating and setting limits to the expenditure.

"For affording a legal recourse to the subject having claims against the provincial government.

"For regulating certain fees and offices.

"For enabling the inhabitants of the towns to have a voice in the management of their local concerns, and a check on the expenditure of monies levied upon them by assessment.

"For facilitating the administration of justice throughout the province, for qualifying and regulating the formation of juries, and introducing jury trials in the country parts, and diminishing the expenses occasioned by the distance of suitors from the present seats of justice.

"For providing a new and sufficient gaol for the district of Montreal.

"For qualifying persons to serve in the office of justice of the peace.

"For continuing the acts regulating the militia of the province.

"For encreasing and apportioning the representation in the house of assembly equally among the qualified electors throughout the province, particularly in the new settlements and townships.

"For the security of the public monies in the hands of his Majesty's receiver general in this province.

"For the independence of the judges, by securing to them their present salaries, upon their being commissioned during good behaviour, and for providing a tribunal for the trial of impeachments by the assembly, so as to ensure a just responsibility in high public officers within the province.

"For appointing and providing for an authorised agent for the province, to reside in England, and attend to its interests there.

"It is with the most profound grief that we find ourselves compelled to represent to your Majesty, that during several years past

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in the month of February, viâ New York. Mr. Gale, chairman of the quarter sessions at

the incomes derived from real estate in this province, the profits of trade and industry, and the wages of labour therein, have greatly diminished and still continue to diminish; that under these circumstances it would not be equitable to impose taxes or new duties on its inhabitants for the public uses: and that there exists no other resource which can reasonably be depended upon, to aid in the diffusion of knowledge and facilitate the exertions of individual industry, than the proceeds of the existing revenues levied within the province.

"Nevertheless, more than one-half of the gross amount of all its public revenues has been applied for several years past, in payment of salaries, emoluments and expenses of the officers of the civil government, exclusive of the usual and indispensable special appropriations; and our anxiety is the greater, as these salaries, emoluments and expenses have been greatly increased without the consent of the legislature, and have in some instances been paid to persons who do not reside in the province, or have rendered no service therefor; and in other cases, the said salaries and emoluments and expenses are excessive, when compared with the income derived from real estate in this province, and the usual recompense obtained therein by individuals of talents, character and industry equal to those possessed by the persons to whom the said salaries and emoluments are paid out of the public revenue of this province; and lastly, in addition to those unnecessary and excessive salaries and expenses, your Majesty's subjects of this province are also burthened with various and increasing fees paid to the officers of the civil government, which are grievous to the subject, diminishing the protection of the laws, the benefits of government, and the resources of the country for its necessary wants.

"We are convinced that besides the most perfect security of person and property, one of the most efficacious means of promoting the public prosperity and preventing its decline, is to aid in the diffusion of useful knowledge and the free exercise of individual industry and enterprize; and we have witnessed with satisfaction and gratitude that our provincial legislature has appropriated very large sums of money for these objects, since the close of the last war with the United States of America; but we have to perform the painful duty of humbly representing to your Majesty, that the monies thus appropriated and applied under the direction of the provincial executive, have not produced the beneficial results that were to be expected from a legal and judicious application of them, and have been tardily or insufficiently accounted for.

"It is with the utmost pain that we are compelled to represent to your Majesty, that in this province of the british empire, large sums of public money of the revenue levied within this province, have been applied, year after year, by warrant of the executive government, without any appropriation by the legislature of the province, (at a time when the necessary appropriations were rejected in the said legislative council,) in payment of alleged expenses of the civil go-

vernment and other expenses for which no services were rendered to the province, or for new and increased salaries and allowances never recognised by the legislature Were we to refrain from complaining of such an enormous abuse, we should co-operate in consolidating our slavery, and we humbly implore your Majesty's justice.

" Alike negligent in the preservation of the public monies and prodigal in their expenditure, the executive government of this province has not only suffered the dissipation of large sums of money in the hands of the receiver general and other depositaries thereof, then and still under its superintendence and controul, but has appointed other officers in the stead of these faulty depositaries, without taking any sufficient security for the future; and having advanced to different persons large sums of money appropriated by the legislature, the neglect of the executive government in this respect has been such, that several of those persons have not accounted at the time when they ought to have accounted; some have insufficiently accounted or not rendered any account; and notwithstanding their negligence and default, some of these persons have been appointed by the executive government to offices of trust, honor and profit; and we most humbly represent to your Majesty that the executive government of the province, by its negligent conduct in these respects, has exposed your Majesty's subjects in this province to heavy and grievous losses, dissipated and endangered the resources of the province, and subjected its inhabitants to unnecessary burthen.

" Your Majesty's faithful subjects in these provinces have already forwarded humble representations to your Majesty's government on the subject of the college and estates heretofore in the possession of the late order of jesuits in this province, and while we deplore the unfavorable result of our past endeavours, we nevertheless continue to entertain the most perfect confidence, that so soon as the truth shall be fully known to your Majesty, justice will be rendered unto us; and we humbly represent that as the said order was never the proprietor of the said college and estates, but merely the depositary thereof, for the education of the youth of Canada, the extinction of that order could not confer on the sovereign any other rights on that property than were possessed by the said order; and your Majesty succeeded to the possession of those estatee, subject to their being applied to the education of the youth of this province, conformably to their primitive destination; and it is with the most profound grief that we find ourselves still deprived of the benefits which were formerly derived from the actual application of that property to these objects under the direction of the jesuits, while education is languishing amongst us for want of those resources.

" The settlement of the waste lands in this province, the importance of which has already, at various times, occupied the attention of your Majesty's imperial government, has been neglected in the most unaccountable manner by the executive government of the pro-

as it was said, by the executive, with a view of affording the minister any information touch-

vince, so that large portions of the said lands, granted or reserved by the crown, have been long held, and continue to be held in the midst of, or in the immediate vicinity of actual settlements, without the owners or possessors thereof having been compelled to perform the duty of settlement upon which the said lands were granted by the crown, or any other duty in relation to the said lands, to the grievous burthen of the actual inhabitants, the discouragement of new settlers, and the obstruction of the general increase and prosperity of the province.

" But of all the abuses of which the inhabitants of this province have to complain, the most afflicting to your petitioners is, that during the prevalence of the the aforementioned and various other abuses and grievances, false representations and repeated attempts have been made by divers officers of the provincial executive, possessing the confidence of your Majesty's government, to obtain from your Majesty's government in England, and the parliament of the United Kingdom, various alterations in the constitution of the government of this province as established by law, without the knowledge of your Majesty's faithful subjects in this province, in contempt of their most sacred rights and dearest interests ; and this at a time when a majority of executive councillors, judges and other officers in the legislative council prevented the inhabitants of the province from from having an authorized agent in England, to watch over and support their interests, and enable them to be heard by the government of the mother country ; and it is under these circumstances that the act of the parliament of the United Kingdom 4th Geo. IV., chap. 6, reviving or continuing certain temporary acts of the provincial legislature levying duties within this province, and the acts affecting the tenure of lands therein were passed, without the knowledge of its inhabitants, to the subversion of their rights and dearest interests, and particularly without the knowledge and consent of the proprietors more immediately interested in the last mentioned acts. It is with the most afflicting sensations that we have witnessed the intrigues which have been in operation to despoil your Majesty's faithful subjects in this province, of the rights and benefits which were granted and guaranteed to us, by the supreme authority of a powerful and generous nation, under the auspices of its most illustrious citizens.

" We most humbly implore your Majesty to take this our petition into your most gracious consideration, to exercise your royal prerogative, so that your Majesty's faithful subjects in this province be relieved from the aforesaid abuses and grievances, and justice be done in the premises, that your petitioners may be maintained and secured in the full enjoyment of the constitution of government, as established by the act passed iu the 31st year of the reign of our late sovereign, your royal father, wtthout any alteration thereof whatsoever.

" And your petitioners, as in duty bound, will ever pray.

" Quebec, December, 1827.

ing the public affairs in Canada, in which he was very well versed, that might be required. He

1828.

The following is a *précis*, as found in the *Quebec Mercury*, of the address from Montreal to his Majesty :—

It opens with the usual professions of loyalty, gratitude, &c., and sets forth the forbearance, long suffering and silence of the Canadian people, until accumulated suffering obliges them to break silence.

It then complains of the governor-in-chief, that he has committed divers arbitrary acts tending to alienate the affections of his Majesty's subjects, and subversive of his government as established by law in this province.

That he has drawn from the receiver general considerable sums of money, without being legally authorized so to do.

That he has wilfully and wickedly, mutilated, suppressed or concealed from the knowledge of the provincial parliament sundry documents and public papers, to the hindrance of public business and the great injury of his Majesty's subjects in this province.

That he continued the late receiver general in office, after his defalcation was well known and acknowledged.

That he appointed John Hale, Esqr., receiver general, without requiring security.

That he has at different times made use of his authority as commander-in-chief, to influence and intimidate the inhabitants of this province, in the exercise of their civil and political rights.

That in the same capacity he has without cause removed or disgraced a number of militia officers.

That he has in the same manner dismissed several civil officers.

That he has maintained and still maintains and keeps public functionaries in office after it has been shewn that their conduct was prejudicial to his Majesty's service and to the interests of the subject.

That he has needlessly multiplied special courts of oyer and terminer, at an enormous expense to the province.

That he has suddenly and violently prorogued and dissolved the parliament, and thereby hindered or delayed the passing of necessary acts. That in his speeches he has made false accusations against the representatives, tending to lower them in the esteem of their constituents, and to create prejudices unfavourable to the loyalty of his Majesty's canadian subjects; and allowed the Gazettes of the government, published under its authority aud controul, to calumniate the assembly and the whole population of the province.

That by means of the said Gazettes he has threatened to deprive of office all those who did not support the government, and in conformity to the vindictive policy recommended by the writers employed by the executive, he has punished the province by withholding the royal sanction in 1826, from five bills of appropriation for public improvements, and in allowing executive councillors and others under government controul to support such vindictive policy in the legislative council, by rejecting in 1827, all bills of appropriation for public improvements or the support of charities.

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was also charged with petitions to His Majesty and the two houses of parliament from the Eastern Townships, complaining of neglect and injustice on the part of the colonial legislature towards them.*

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That he has violated the elective franchises of the people, by directly and indirectly, influencing elections.

That in fine, he has by all these divers acts of oppression created a sentiment of alarm and discontent throughout the province, lowered the authority of the judicial power in the opinion of the public, weakened the confidence of the public in the administration of justice, and inspired throughout the province an insurmountable sentiment of distrust, suspicion and disgust against his administration.

Therefore they pray for the recall of the governor-in-chief.

And further, having got into the royal presence, they take the opportunity of complaining to his Majesty against his royal self, for improperly withholding the revenues of the jesuits' estates,—and against the imperial parliament for violating the canadian constitution by passing the acts commonly called the Canada Trade Act and Canada Tenure Act.

All which is humbly submitted, &c., by his Majesty's faithful and loyal subjects of Lower Canada.

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* "To the honorable the knights, citizens and burgesses, representing the commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

"The petition of subscribers, his Majesty's dutiful and loyal subjects, of british birth or descent, inhabitants of the townships of Dunham, Stanbridge, St. Armand, Sutton, Potton, Stanstead, Barnston, Barford, Hereford, Farnham, Brome, Bolton, Hatley, Compton, Clifton, Granby, Shefford, Stukely, Orford, Ascot, Eaton, Newport, Bury, Hampden, Milton, Roxton, Durham, Melbourne, Windsor, Shipton, Stoke, Dudswell, Simpson, Kingsey, Grantham, Wickham, Wendover, Brompton, and other townships and places situated on the seuth-east side of the river St. Lawrence, in the Province of Lower Canada.

"Humbly sheweth,—That the number of inhabitants of british birth and descent, now residing in the Province of Lower Canada, exceeds seventy thousand souls, a greater amount than all the inhabitants of the country when it first became a colony of England.

"That the townships of Lower Canada form a large portion of the territorial extent of the province, separate from the seigniories of old french feudal grants thereof, and are inhabited by a population of upwards of forty thousand souls almost wholly composed of persons of british birth and descent, whose numbers are continually augmenting, besides their natural increase, by the desirable accession of emigrants from the mother country.

Shortly after the departure of the delegates for England, but before they had reached their



" That, so long ago as the year 1763, his Majesty's proclamation assured his subjects coming to settle upon the ungranted lands in Canada, the benefit of the laws of his realm of England. That the assurances of this proclamation were as to them sanctioned and confirmed by the exception contained in the statute 14, Geo. III., which declared that the provisions of the said act, establishing french laws, should not extend nor be construed to extend to lands to be granted in free and common soccage, the exclusive tenure of the townships.

" That no provincial enactments or provisions were made towards carrying into practical operation the valued privileges of the English laws which had been as aforesaid assured to them; although the wishes of the townships in that particular were loudly expressed and universally known. That in consequence the imperial parliament, in its beneficence, was pleased in the 6th year of the reign of his present Majesty to pass an act, not less called for by a due regard to national honor, than by a sense of justice to your petitioners; wherein any doubts too scrupulously entertained in respect to the construction of the aforesaid statute 14th Geo. III., have been happily removed, in relation to the townships, and the English laws regarding tenures established therein.

" That it hath come to the knowledge of your petitioners that numbers of the inhabitants of the seignories, influenced by the french canadian leaders of the house of assembly are now petitioning the imperial legislature for the repeal of the before mentioned statute of the sixth year of his present Majesty's reign, commonly called the " Canada Tenures Act."

" That your petitioners for the blessing conferred by the said statute of the imperial parliament, in bestowing upon them the benefit of the laws of their parent country, and preserving the ties and character which connect them with the empire to which they belong, feel a weight of gratitude greater than they can express, and will at all times be ready to defend those ties against every invader or enemy either in Lower Canada or elsewhere. Their gratitude is also deeply felt on behalf of their countrymen the emigrants from Great Britain, who will now be induced in great numbers to settle among them, but who without the benefit of english laws, would, for the most part, have been led to seek an asylum elsewhere, as they have unhappily for this province, too often done in times past.

" That in order to give practical effect and scope to the benefits conferred upon them by the recent act of the imperial parliament, and also to prevent the machinations of the french canadian house of assembly to their ruin, it becomes necessary that the townships, which have never hitherto been represented in the provincial legislature, notwithstanding their repeated solicitations in that behalf, should be divided into counties entitled to send members to the provincial legislature, and that competent courts of jurisdiction should

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destination, and in fact before the result of the late meeting of the legislature was known there, lord Dalhousie received notice that he was to succeed lord Combermere, as commander-in-chief of the forces in India, whenever that officer should return to England, and that with a view to this arrangement, whenever his excellency should, at his own convenience, fix a period for his leaving Canada, a successor to him in the government would be named. Sir Francis Burton was at first spoken of as his successor.

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be established among them for the administration of justice, in conformity to the laws which have been beneficially accorded to them by the mother country.

" That while your petitioners were waiting patiently the effect of their repeated solicitations for redress of grievances to be administered by the provincial legislature, the legislative council, in the session of the year 1825, by recommendation of his excellency the governor in chief, passed a bill of the most salutary description, introducing into these townships the english law of dower and conveyance, and making encumbrances special, establishing also public offices therein for the enregistration of all mutations of real property and of all mortgages on the same.

" That though this bill, carefully abstaining from every unnecessary innovation, neither disturbed the routine not touched the customs of the french canadians in the seigniories, the house of assembly evincing its characteristic disregard for the claims of your petitioners, neglected to proceed upon the said bill when sent down for concurrence; your petitioners are therefore constrained to pray the interference of the imperial parliament for the establishment of register offices as aforesaid.

" Your petitioners therefore humbly pray your honorable house will be pleased to pass an act to authorize the erection of the townships into a competent number of counties, according to the extent of territory, to the end that the interest of the population of emigrant settlers may be provided for by a due proportion of representation equivalent to their just claims, and also establish such competent number and description of courts and jurisdictions as the interests of these extensive sections of the province and the ends of justice may require. And further to establish public offices of registry, for the enregistration of all acts and deeds, conveying or encumbering real property therein.

" And your petitioners, as in duty bound, will ever pray, &c., &c."

In the month of March, the commissions of the peace, for the different districts of the province were reformed, and several removals from the magistracy took place by reason, it was supposed, of the part which the deposed justices had taken at agitation meetings in their respective localities, and in some instances for slandering at such the governor personally, in a manner, it was said, unfitting the individuals for the position they occupied. These removals were, of course, held up as arbitrary abuses of his power and grievances springing from the honest zeal and patriotism of the obnoxious magistrates in their country's cause; who, of course, redoubled their exertions in the work of agitation, and not without effect.*

* The following militia general order, dismissing certain officers may, perhaps, in part explain the dismissals from the commissions of the peace:—

"Office of the Adjutant General of Militia,
"Quebec, 21st Feb., 1828.

"General Order of Militia.

"The governor and commander in chief has seen with great regret, that several officers commanding battalions of militia, forgetting their duty to set an example of subordination and respect for authority to those placed under their command, have shewn themselves the active agents of a party hostile to his Majesty's government. Such conduct tending to create discontent in the country, and to bring the executive government into contempt among the people, cannot be permitted to pass without notice, his excellency therefore, in virtue of the power vested in him by his Majesty, signifies to the undermentioned officers, that his Majesty has no further occasion for their services:—

"3d batt. Buckinghamshire, lieut.-col François Legendre.

"1st batt. of Bedford, lieut.-col. R. Hertel De Rouville.

"3d batt. of the county of St. Maurice, lieut.-col. A. Poulin De Courval.

"1st batt. county of Kent, lt.-col. R. Boucher De Labruere.

"2d batt. of Huntingdon, major M. Raymond.

"The governor in chief thinks it not less his public duty than an act of justice to the loyal militia of the province, to put them on their guard against being misled by the arts and misrepresentations of ill

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During the March assises at Quebec, several bills of indictment for seditious libels upon the government, and slander of the governor personally, were found, in particular four against Mr. Samuel Neilson, editor of the Quebec Gazette, and two against Mr. Charles Mondelet, an attorney at Three Rivers, for alleged libellous matters from him, published in the Gazette. Several bills for the like causes had also recently been found at the Montreal assizes, against individuals of that city, the principal of whom were Mr. Jocelyn Waller, an irish gentleman of good family, extensive information, and an accomplished political writer, editor of the "*Canadian Spectator*," an ably conducted but vehement party paper, published in Montreal, and Messieurs L. Duvernay and James Lane printers thereof. There were, in like manner, indictments found against other individuals, but none of them, it was thought, of such importance as to be entitled to the notoriety of an *ex officio* prosecution by the attorney general, being petty agitators of an order far too insignificant for notice of the executive. The defendants pleaded "not guilty," and their cases lay over to the assizes in September, and then were put off

disposed persons to entertain unfounded suspicions of the views and acts of government, or to swerve from that respect for its authority, and that spirit of obedience to the laws, which become dutiful and loyal subjects.

"By order of his excellency the commander in chief,

"F. VASSAL DE MONVIEL, adjt.-gen., M. F."

Several other dismissals took place subsequently, which it is deemed unnecessary to particularize.

to the ensuing term; but in consequence of the recall of lord Dalhousie, and the conciliatory policy recommended by the Canada Committee, they were finally abandoned.

The militia in the city of Quebec, had hitherto been divided into british and canadian battalions, a system tending to keep alive a distinction, in the opinion of many, inexpedient and impolitic. This lord Dalhousie determined to abolish, and accordingly issued a militia general order to that effect*

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* *Militia General Order, 28th April*, 1828.

"His excellency the governor general and commander in chief, being desirous to do away with the distinction which has always been supposed to exist in the militia of Quebec, as forming one english and two canadian battalions, has thought proper to order, that to each battalion has been allotted a certain portion of the city, in which all householders or lodgers shall be enrolled, whether british or canadian born—that no distinction of religion shall be considered—and that arrangements shall be made gradually, to appoint to each battalion those captains and officers and non-commissioned officers, who, as householders, are resident within the limits of the battalion.

"The governor in chief is sensible that this may create at first some trouble and inconvenience, but the object is too important to admit of any consideration of such a difficulty.

"The first battalion is to be limited within the upper or fortified town, including also the suburbs of St. Lewis to the boundary of the banlieue.

"The second battalion will comprehend the St. John and St. Roch suburbs, on the right bank of the St. Charles river, down to the street and approach to Palace Gate.—The limits of the third battalion will begin from Palace Gate, and comprehend St. Paul street and all the lower town along the St. Lawrence to the banlieue boundary on the shore.

"His excellency having received a satisfactory explanation of the conduct of capt. Rolland, of the 2d batt. of the county of Montreal, who by the general order of the 12th Dec., 1827, was dismissed the service, for having neglected to attend the trainings and reviews of last summer,—and finding that the neglect did not arise from want of zeal or loyalty, but was occasioned by indispensable business, which obliged capt. Rolland to be absent from the city at the period—his

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The unsettled and complicated state of affairs in Canada, and these petitions, determined the home government to submit the whole to parliament. Accordingly, on the 2d May, Mr. Huskisson moved in the house of commons, "that a select committee be appointed to enquire into the state of the civil government of Canada, as established by the Act 31 Geo. III., chap. 31, and to report their observations and opinions thereupon to the house." A committee* of twenty-one members was consequently named. In submitting his motion, he fully exposed the views he entertained of canadian affairs and the position assumed by the assembly, expatiating with the liberality becoming a british statesman on the future destiny of these provinces:—

"There is, I am sure, none who will not say, that the pretensions of the legislative body to take the whole management of these monies into its own hands, are neither founded in law nor practice. On the other hand, the house of

excellency has in consequence been pleased to order that he be restored to his rank in the battalion, according to the date of his commission."

This system, however, has recently (in 1847) been reversed, unwisely, as many apprehend, by lord Cathcart, and the former restored. The change is attributed to the advice given his excellency on the subject by lieut.-col. Taché, a french canadian gentleman, during his incumbency in the office of adjutant-general of the militia in Lower Canada. Mr. Taché served in one of the incorporated militia battalions, during the late american war, "the Canadian Chasseurs," which accompanied the army to Plattsburgh in 1814.

* The following is a list of the committee:—The right hon. Wm. Huskisson, right. hon. C. Wynn, T. F. Lewis, right. hon. S. Bourne, Sir N. Tindal, Sir J. Macintosh, right hon. W. Horton, right. hon. V. Fitzgerald, hon. E. Stanley, hon. J. S. Wortley, lord F. L. Gower, W. B. Baring, J E. Denison, T. H. Villiers, M. Fitzgerald, T. Loch, Archibald Campbell, J. A. Fazakerley, T. Wallace, Viscount Sandon, H. Labouchere.

assembly holding the public purse in its own hands, having the complete command of the general revenue, in order to enforce its unreasonable pretensions—for so I must call them, inasmuch as they are contrary to law, inconsistent with, and subversive of all the principles of constitutional government—in order I say to enforce their pretensions, have refused to appropriate any part of the larger revenue, of which they have the command, unless also the appropriation of the permanent crown revenue be given up to them. This, sir, is the state of the controversy between the executive and the legislative body in Canada. The consequence of the agitation of such a question as this, in which both parties have stood upon their extreme rights—(Hear, hear, hear)—have been most unfortunate, and such as all who looked dispassionately at the subject, could not but most deeply regret. One of the unfortunate consequences has been, the necessity under which the representative of the king has found himself, of appropriating money for the necessary services of the colony, without the sanction of the colonial legislature. Such a thing as this, in a country with a legislative assembly—in a country that has the least pretence to freedom, can only be justified by the absolute necessity of preventing general confusion, and the subversion of the government. I do not stand here, God forbid that I should! in the british house of commons, living as I do, in a country where the rights of the popular branch of the legislature to controul the expenditure of the money it raises are so well known and universally acknowledged—to defend the abstract propriety of a governor of a colony appropriating its revenue without the sanction of an act of the legislature, as required by law; but, pressed by necessity, it ought not perhaps to be wondered at, however we may regret the necessity, that a governor should take all the means in his power to maintain the tranquillity of the place committed to his charge.—When principles are pressed to the extreme, a legislature may, no doubt, distress the executive government of a country, and so wear it out by continued opposition, as to have the point in dispute conceded; but what are not in the meantime the unfortunate results to the people? What, in the midst of these conflicts, has been the result to the province of Canada? Nothing was expended of the money raised

Chap. XXVII. 1828. in this irregular manner, as I must call it, but what was absolutely necessary to carry on the government of the province; all improvement was at a stand, the roads were neglected, education was overlooked, the public buildings were suffered to fall to decay, and the country generally—I will not say reduced to a state of anarchy, because the king's representative properly sustained his government—was brought to such a state that there was not a canadian whose interests did not suffer. The recurrence of such a state of things it is our duty to prevent, and I think I have made out such a case as is sufficient to convince the house, without going into further details, that, if we have the right and the power, the time is come which warrants us calling upon parliament to interpose its beneficent authority for the purpose of quieting these feuds, and of establishing such a system of civil government as may give a fair share to all parts of the province of the administration of the revenues, so as to render them available for the improvement of the country —such a system as will on the one hand give to the legislative assembly the power of directing the whole application of funds for the internal improvement of the province, and on the other, restraining them from the exercise of any authority over what I may call the civil list. Every man who knows anything of the country must be aware of the unfitness of the king's representative in the government, and the the judicial establishment for the administration of criminal justice, which is the same as that of England, depending for their stipends upon the varying judgments of a popular assembly. The inexpediency of this with regard to the judicial establishment, which in its administration of justice, might often come into collision with the members of the assembly, whose judgment is every year to regulate the reward of their services, must be particularly obvious. Judges have duties to perform, which render it essential that they should be perfectly independent. I trust I need say no more to convince the house, that the system wished to be established by the canadian legislature, is not compatible with the independence and dignity either of the king's representative or the criminal judges. (Hear, hear.) Out of what particular fund these charges should be defrayed, I am not prepared to say, but the present plan of paying a fixed and settled

sum out of a variable revenue, I certainly think might be amended. Without, however, entering into the particulars on this point, I think some mode might be found for establishing what I have styled the civil list, from which the salaries of the judicial and other departments should be granted for life; or in any other way that would answer the object I have in view. The remainder of the revenue should then be left to the free disposal of the colonial legislature. I must here, in justice to the king's government in Canada, claim for them their due. So far was it from wishing to have any control over any further sum than that to which I have alluded, that they never hesitated, during the whole of these troubles, to lay before the legislature of the province, an account of the application of, and payments from the revenue, in order that the assembly might be assured there was no misapplication of it. The government there are perfectly willing, it is evident from this, to accede to the suggestion I have just made respecting the share of controul it shall have over the colonial revenues. Sir, I do not think there are any other topics connected with the present state of Canada, which would justify me in detaining the house longer, as I trust I have said sufficient to support me in the motion I intend to make. There are two grounds on which I principally rest. The first is the state of the representative system in Lower Canada, and the situation of the revenue in respect to the administration of justice; and the second is the controversy which has grown up respecting the powers of the executive and legislative bodies. The case I have made out on those two points is sufficient, I trust, to entitle me to the committee for which I mean to move. Before I sit down, I beg only to add a word or two respecting a point which has been insinuated in this house, and discussed in other places. I allude to what has been said respecting the policy of giving up the colony altogether. Those who think it would be politic to do so, may say that we ought to spare ourselves all trouble and endeavours to improve the state of the provinces, by taking the wiser and better course of relinquishing them altogether. (Hear, hear.) Let those who argue thus, consider that these are our fellow subjects—are born like ourselves, in the king's allegiance—are fulfilling

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Chap. XXVII. 1828. all the duties of subjects and are willing to remain as such and fulfil all the obligations their allegiance to the Crown requires. I say, that whilst that is the case, they are fairly entitled to claim from us that protection which their fidelity and good conduct have rendered them so worthy of. (Cheers.) On such a subject I will not argue on—what is, however, a very maintainable ground, the importance of these provinces to Great Britain in a naval, a commercial, and political point of view.—(Hear, hear) but I implore honorable gentlemen, before they venture even to allow themselves to hint at such a conclusion as that to which I have just adverted, to consider the political honour of this country, and the moral impression which would be made on all nations by such a relinquishment without necessity, and without its ever having been asked us. (Cheers.) Shall we give up such a possession without a challenge? Or shall we, as was done in the case of another part of America once, also belonging to France, I mean Louisiana—shall we make it a matter of pounds, shillings and pence? Shall we sell it to another power? England has not fallen so low. (Cheers.) Canada is bound to us by the recollections of honourable valour, both naval and military. (Hear, hear, hear.) It is a trophy too glorious to part with in either of the ways I have alluded to. Canada cannot but be maintained by every means within our power; we are bound if we wish to bear untarnished our honour, to give Canada protection to the last extremity. That, then, is not a view of the subject we can for one instant entertain. It is a country, too, let it be remembered, where there are none of those unfortunate distinctions which prevail in others of our colonies—there is no division of castes, no slavery—the people are, I may say, almost as one family, united by the most intimate connections with this country. England is the parent of many colonies, one of which now forms one of the greatest and most flourishing empires in the world; by that, and others, we have carried our language, our free institutions, and our system of laws, to the most remote corners of the globe. What we have thus planted is now taking root, and what we now foster as colonies will be, no doubt, one day or other, themselves free nations, the communicators of freedom to other countries. If I am told that for this we have made great sacri-

fices, I say, be it so, for, in spite of these sacrifices, England remains, for its extent, still the most powerful, the most happy nation that does or ever has existed. I say, moreover, that we should be well paid for all the sacrifices we may yet be called upon to make, if we are to add to the rich harvest of glory we have already reaped, by being the parent of countries in which the same happiness and prosperity that has distinguished this country will, I trust, for many ages to come, be enjoyed. That will be our reward for establishing our superfluous population not only in America, but in other quarters of the world. What can be a prouder feeling for englishmen, than that England has done its duty to the world, by attempting, and successfully, to improve it? Whether Canada is to remain for ever dependent on England, or is to become an independent state—not, I trust, by hostile separation, but by amicable arrangement—it is still the duty and interest of this country to imbue it with english feeling, and benefit it with english laws and institutions."



Mr. Huskisson, in his reply to various observations made in course of the debates, finally stated "that he had purposely abstained from noticing the public conduct of lord Dalhousie. He thought the fact that the noble lord would, in all probability, be shortly called upon to fill a higher station than that he at present held, was the best proof that could be given to the friends of that noble lord that his conduct had been entirely satisfactory to the government which had employed him." To shew the house the propriety of going into the subject as proposed by him, he would, as Mr. Pitt had, in the course of the debates, been referred to, read a short extract from one of his speeches. When that minister brought in the bill establishing the constitution of the Canadas, he stated "that if the legislature of Canada were

Chap. XXVII. 1828. not properly constituted at first, the house would remember that parliament was perfectly competent to alter and amend it. In the course he (Mr. Huskisson) had pursued, he had acted upon the principle laid down by Mr. Pitt thirty-five years ago, when he brought in that bill. The right honble. and learned gentleman (Sir J. Mackintosh) had attached the utmost importance to the petition which the right honble. gentleman said had 87,000 signatures. He had also said that the house ought at once to yield all that was demanded of it. Now, of the 87,000 signatures, 9,000 only appeared in names written by the parties, and the rest were marks, which was, he thought, a clear proof that Lower Canada had not been governed by the best possible legislature."

Sir James Kempt, lieut.-governor of Nova Scotia, came up from Halifax, the seat of his government, in June, to Quebec, whence he proceeded to the Ottawa, accompanied by lord Dalhousie, meeting colonels Fanshawe and Lewis, at Montreal, just arrived via New York from England, who had been despatched on the service for which, on the present occasion, Sir J. Kempt visited Canada. The object of this visit, as reported, was a tour of inspection of the works in progress and the projected line of the Rideau Canal, in order to prepare certain estimates in connection with these works required by the government at home. He sailed from Quebec on his return to Halifax, on the 7th July, by which time the certainty of his ap-

pointment as successor to lord Dalhousie had become public, and on the 2d of September, he again arrived at Quebec, in H. M. S. Challenger, which having been despatched from England to bring home the governor-in-chief, had put into Halifax, to convey hither his successor, who, accordingly, on the departure of his lordship, assumed the government of the province, under the title of administrator in chief.

A grand entertainment was given to the earl and countess Dalhousie, a few days before their departure for England, by the civil and military society of Quebec, in proof of the esteem of those amidst whom they had so long resided. His lordship had a short time previously, while on a tour of duty at Montreal, been entertained at a dinner by the principal citizens, with every demonstration of respect for himself personally, and approbation of his government which it was in their power to give. He received, on the eve of his embarcation, a multitude of addresses couched in the warmest terms, from the british inhabitants in all quarters of the province, including Quebec and Montreal. No governor, in fact, ever left Canada with more gratifying, and so many proofs of the general esteem of the british population of the province, as were conferred upon the earl of Dalhousie. His lordship embarked and sailed for Britain, on the 8th September, attended from the castle of St. Lewis to the place of embarcation by his successor, Sir James Kempt, the

Chap. XXVII. 1828. civil and military authorities in Quebec, and a vast concourse of the british inhabitants of the city and its neighbourhood. At eight o'clock in the morning of the day of his departure, his excellency, accompanied by the military authorities of the garrison and a large concourse of the citizens of Quebec, was present at the placing of the apex or cap-stone on the monument erected, at his excellency's suggestion, to the memories of Wolfe and Montcalm, the ceremony being performed, as previously mentioned, by captain the honorable Fox Maule, his nephew, and one of his lordship's aides-de-camp, as his proxy on the occasion.*

"Gentlemen,"—said his lordship, to a depu-

* "WOLFE'S AND MONTCALM'S MONUMENT.—On Monday last, (8th Sept., 1828) about 8 o'clock, his excellency the earl of Dalhousie, accompanied by his excellency Sir James Kempt, attended by the staff, several military officers, and some ladies and gentlemen of the city, proceeded to the walk in front of the governor's garden, to witness the completion of this handsome monument. A few minutes after 8, the apex or cap-stone was placed on the summit, and the ceremony of tapping it with the mallet, was performed by capt. Fox Maule, as proxy for the noble earl, who ascended to the top of the shaft for that purpose. Thus has this gratifying work, by the exertions of Mr. Phillips, been completed during the summer, to the great gratification of his excellency, who has all along expressed the strongest desire to witness its completion previous to his departure. The scaffolding is not yet removed, and the beautiful proportions of this monument are consequently not yet seen to full advantage. We defer, therefore, any more complete account of it, until it is entirely open to view; recommending it in the mean time to the inspection and examination of men of taste and good feeling; who are on the one hand capable of judging of its elegance, and on the other disposed to see in it a proof of the desire always felt by his excellency to embellish the city, at very considerable cost to himself. This is not the only monument of liberality left behind him, to endear him to the memory and respect of his countrymen, and of the Province."—*Official Gazette.*

Mr. Phillips, a stone-mason and very respectable citizen of Quebec, who superintended the erection of the monument, generously gave his services gratis, as a part of his contribution towards it.

tation from Three Rivers, with an address to him previous to his departure—" I have never varied from the course of my duties, so far as I could comprehend those of the representative of our most gracious sovereign, in the distant colonies of the british empire. I have studied to walk the path of honor as a man and as a soldier. I have above all things studied to do justice with impartiality, without any respect of persons. I have disregarded popular clamour, and the slander of wandering scribblers. My sense of duty has never been influenced by such common weapons, and I leave them behind me as utterly inoffensive. The favourable opinions expressed in the language of this address are to my mind the highest reward of public life; they are lasting and imperishable to me and to those who shall follow me to sustain my name. I can leave no better record to guide the young to a close as honorable as this which you now testify to me."



Sir Walter Scott, in his life of NAPOLEON, speaking of the entrance of the duke D'Angouleme into Bourdeaux, and the occupation of that fine city by a division of the british army under the duke of Wellington, observes that—" lord Dalhousie was left commandant of the " british; and if excellent sense, long experi- " ence, the most perfect equality of temper " and unshaken steadiness be necessary in so " delicate a trust, the british army had not one " more fit for the charge"—no light eulogy considering whence it comes, nor likely, so

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long as a taste for british history and literature shall survive, to pass away. Biassed, as we acknowledge we are, in favor of the late lord Dalhousie, (for whose regard, as felt through various unsought and spontaneous acts of his kindness the writer was deeply obligated, and therefore owes his memory a debt of gratitude he never can acquit,) and mixed up, perhaps too much, with the political agitation and animosities of those by-gone days, our testimony of itself may carry but little weight; but we will, nevertheless, record the conviction we still, after a lapse of more than twenty years, entertain and ever will, of that nobleman's administration and character. He was not, indeed, successful in his government and he poignantly felt it, but more so the want of support at home, from those who, by every tie of obligation and of honor were bound to vindicate and stand by him, but who, when the storm came which they themselves, by their instructions had provoked, abandoned him to his fate, and to the cross fire of his enemies, warring against him solely for his fidelity and adherence to those instructions. No man in his position, we sincerely believe, ever more earnestly strove honestly and faithfully to discharge the duties entrusted to him by his sovereign, nor in a more perfect spirit of conciliation towards the representative body of those he was deputed to govern; nor could any man more zealously desire than he to promote, in all respects, the prosperity of the people.

That he failed, was owing to the untoward questions of prerogative on the part of the crown, on the one hand, which his instructions forbad him to compromise, and of the rights of the people and the privileges of the Assembly in matters of revenue, on the other, which he found, on his advent to the government, agitating the country, and which it was impossible to reconcile, particularly fostered, as they were, by the unsteady and wavering policy of the home government, placing their vicegerent in the colony in a situation pretty much like that of Damocles, with the sword suspended by a single hair over his head. There was a manliness, candour and integrity in lord Dalhousie, that could not fail to command the respect of every unprejudiced mind acquainted with him. His character, in fact, was rather that of the soldier than of the statesman. There was no mysticism in his policy, nor intrigue in his dealing with parliament, nor with those influencing it—all was open, above board, and undisguised.—His projected measures, whether recommended by speeches or specially by message, he left to succeed or fail according to their merit, or the want of it, taking no covert or indirect means to ensure their success in the legislature,—rightly thinking that if not worthy of its adoption, it were idle in him to descend to solicitation or intrigue, which he never did. No man could more readily, than this excellent nobleman, where only he individually was

Chap. XXVII. 1828. concerned, divest himself of all selfishness or personal feeling and meet more than half way those who, having differed with, or even rudely assailed him, as to politics, tendered the olive branch, or evinced a tendency that way, as even Mr. Papineau frankly might vouch if he thought fit. But in all that related to his public duties, as representative of his sovereign, of whose honor and interest he ever was jealous and watchful, he was, as the reader may have gathered from the preceding pages, firm, faithful, uncompromising, unflinching. That he was indifferent to popularity is scarcely probable. It would be rebutted by his avowed ill-success in the country, and the annoyance he felt, as he frequently acknowledged, at the opposition raised against his government, by the almost totality of the french canadian population, whom he unfeignedly respected and whose good will he was exceedingly anxious, by all honorable and constitutional means within his reach to conciliate, but in which, unhappily, he failed from causes beyond his controul. Of his military career and reputation we need say nothing. His name is indelibly emblasoned on some of the most splendid pages of modern british history, and his memory is cherished and long will continue to be so, in the hearts of his countrymen and of every true Briton.—He served in Egypt under Abercromby, in the West Indies, Holland, and throughout the whole of the peninsular campaigns with the immortal WELLINGTON, whose

confidence and esteem he enjoyed to an eminent degree. Chap. XXVII. 1828.

The committee of the house of commons, to whom the petitions on canadian grievances had been referred, after a long and assiduous investigation, reported on the 22d July, but their report did not reach Quebec until the 15th September, a week after lord Dalhousie's departure; he was therefore spared the mortification of learning the result before leaving the seat of his late government. After the delegates had departed in February, with the petitions for England, the violence of party, very far from subsiding in expectation of an impartial inquiry and decision upon the causes of complaint, as it was hoped it would, on the contrary increased beyond example and endurance. The press in the interest of and instigated by the factious knew no bounds, pouring forth day after day its columns of the grossest abuse and scurrility upon the governor, not only editorially, but often under the names of the leading agitators themselves, (some of them magistrates and militia officers) who seemed to take a pride in insulting him in the grossest manner through the press, drawing liberally from their own imagination, pretexts for the obloquy and insolence with which they assailed him. The license was so scandalous that no government, however liberal and conscious of its own rectitude, could, with propriety, any longer forbear action on the occasion. Accordingly, seve-

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ral indictments for libel, defamation and slander upon the governor in chief, as before noticed, being laid by the attorney general Stuart, before the grand juries in different districts, had been found "true bills," and the culprits held to bail, some of them certainly too unimportant, as it was thought, even at the time for notice, much less objects worthy of a public prosecution. These proceedings, subsequent to the departure of the delegates, Messieurs Neilson, Viger and Cuvillier for England, they made the special subject of a supplementary petition and complaint to the house of commons while the Canada Committee were yet sitting, withholding, however, their petition until the committee were on the eve of reporting, when several of its members, on the faith, it was said, of an agreement as to the report to be made, had absented themselves from parliament and gone home. This remonstrance was referred to the committee, and had, it is believed, a decided influence upon their opinion, inducing them, it was confidently reported in quarters entitled to credit, to alter a report absolutely agreed upon, of a very different character from that subsequently made, and in particular, expressly absolving lord Dalhousie from all blame.

This memorable report is as follows:—

"IMPERIAL PARLIAMENT,

"House of Commons, July 22, 1828.

"Mr. Frankland Lewis reported from the select committee appointed to enquire into the state of the civil government

of Canada, as established by the act of 31, Geo. III., and to report their observations thereupon to the house, and to whom the several petitions for an alteration in the present government were referred—have, pursuant to the order of the house, examined the matters to them referred, and agreed to the following report:—

"Your committee began their investigation into the state of the civil government of Canada, by examining the several petitions from the inhabitants of the two provinces, which had been referred to them by the house. The petition from the townships of the lower province, signed by about 10,000 persons, complain of the want of courts within their own limits, and of the administration of french law in the french language. That they are without representation in the house of assembly in Lower Canada; and that emigrants of british origin have been deterred from settling in the province: And, finally, they pray that a legislative union may take place between Upper and Lower Canada.

"Your committee then proceeded to examine the petition signed by 87,000 inhabitants of Lower Canada, resident within the seigniories, who complain of arbitrary conduct on the part of the governor of the province—of his having applied public money without legal appropriation—of violent prorogations and dissolutions of the provincial parliament, and of his having prevented the passing of many useful acts, which they enumerate.

"They complain also that a receiver general had been maintained in the exercise of his functions for some years after his insolvency was known to the government. That similar abuses had prevailed with respect to the office of sheriff. And it is further stated, that the rights of the petitioners had been injured by acts of the imperial parliament, particularly by the Canada Trade Act and the act passed in the sixth year of his Majesty's reign, chap. 59, affecting the Tenures of Land.

"For a further knowledge of the grievances complained of, your committee beg leave to refer to the petitions, which will be found in the appendix.

"Before your committee proceed to explain or to discuss these important subjects, they think it their duty to state, that

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petitions from the province of Upper Canada were also referred to their consideration; the prayer of which petitions is, that the proceeds arising from the sale of certain lands set apart for a protestant clergy may not be applied solely to the use of the clergy of the church of England, (the adherents to which throughout the province they state, in contradiction to representations of Archdeacon Strachan, to be comparatively few in number) but that they may be applied to the maintenance of protestant clergymen of other denominations, and to the purposes of general education.

"As these petitions appear to comprehend the most material subjects that have of late agitated the provinces of Upper and Lower Canada, your committee thought the best course they could pursue, was to examine witnesses as to each petition, in succession, and in communicating to the house, the information they have received, and the opinions they have been induced to form as to the civil government of Canada, they will treat of the different subjects as much as possible in the order in which they were investigated.

" Your committee proceeded to examine into the peculiar system of law established in Lower Canada, to which their attention was peculiarly drawn by the petition from the Townships. Your committee have examined in great detail on this subject, from which they collect that uncertainty has long existed on points of law relating to the tenure of real property in that portion of the province. It appears that shortly after the cession of the province, the king of England, in a proclamation dated the 7th October, 1763, (which will be found in the appendix) declared, amongst other things, " That all the inhabitants of the province, and all others resorting to it, might confide in his royal protection for enjoying the benefit of the laws of England," and announced that he had given commands for the erection of courts of judicature, with an appeal to his Majesty in council.

" In the year 1774, the first act of parliament was passed making provision for the better government of this part of the british dominions. By this act the english criminal law was preserved. But it was enacted that, " in all matters of controversy relating to property and civil rights, resort should be had to the laws of Canada, as the rule for decision of the same, and all causes that should therefor be established in

every court of justice, to be appointed within the province, should, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada." There is, however, one marked exception to this concession of the french law, namely, "that it should not apply to lands which had been, or should be granted in Free and Common Soccage."

"After an interval of several years, this act was followed by the Constitutional Act of 1791. The provisions of this important act have no bearing upon the subject under our consideration, excepting that it provides with respect to Lower Canada, that lands shall be granted in free and common soccage if so desired, and further, that such grants are to be subject to such alteration, as to the nature and consequences of Soccage Tenure, as may be made by the provincial legislature, and with his Majesty's approbation and assent; but no such alteration has been made.

"On examining into the application of those provisions in the province, it appears not only that doubts have existed as to the true interpretation of them—but that the general practice of the colony has been to convey real property within the townships according to the canadian forms, and that it has descended and been subject to the incidents of that law. In the year 1826, the british parliament passed an act which put its own interpretation of these statutes beyond the reach of further dispute. This act, commonly called the Canada Tenures' Act, declared that the law of England was the rule by which real property within the townships was to be hereafter regulated and administered. In offering any recommendations on points of so much difficulty and importance, your committee are fully aware of the disadvantages under which they labour, and of their inability, from the want of sufficient technical and local information to enter, for any useful purpose, into minute and intricate details. They do not, however, decline to offer as their opinion, that it would be advantageous that the declaratory enactment in the Tenures' act respecting lands held in free and common soccage should be retained: that mortgages should be special, and that in proceedings for the conveyance of land, the simplest and least expensive forms of conveyance should be adopted upon the principles of the law of England; that form which

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prevails in Upper Canada, being probably under all circumstances, the best which could be selected: that a registration of deeds relating to soccage lands should be established as in Upper Canada.

"Your committee are further of opinion that means should be found, of bringing into effective operation the clause in the Tenures act, which provides for the mutation of tenure; and they entertain no doubt of the inexpediency of retaining the seigniorial rights of the crown, in the hope of deriving a profit from them. The sacrifice on the part of the crown would be trifling, and would bear no proportion to the benefit that would result to the colony from such a concession.

"In addition to these recommendations it appears to be desirable that some competent jurisdiction should be established to try and decide causes arising out of this description of property; and that circuit courts should be instituted within the townships for the same purposes.

"The committee cannot too strongly express their opinion that, the canadians of french extraction should, in no degree, be disturbed in the peaceful enjoyment of their religion, laws, and privileges, as secured to them by the british acts of parliament; and so far from requiring them to hold lands on the british tenure, they think that when the lands in the seigniories are fully occupied, if the descendents of the original settlers shall still retain their preference to the tenure of *fief et seigneurie*, they see no objection to other portions of unoccupied lands in that province being granted to them on that tenure, provided that such lands are set apart from and not intermixed with the townships.

"Your committee are now desirous of adverting to the representative system of Lower Canada, with respect to which all parties seem to agree that some change should take place. To this branch of their enquiry, they are desirous of recalling to the recollection of the house that under the provisions of the act of 1791, the division of the province for the purpose of exercising the elective franchise, was entrusted to the governor; and it appears that Sir Alured Clarke took the numerical amount of the population as the sole basis on which his calculations were formed, and divided into counties as much land as was found to contain a given number of inhabitants. On the thickly populated banks

of the St. Lawrence, a small district was found to suffice, while in the more distant parts, vast territories were comprehended in one county, in order to obtain the requisite amount of population. Thus it happens that the counties of Kent, Surrey, Montreal, Leinster, and Warwick, do not, altogether, equal, in extent, the single county of Buckinghamshire. The small counties, too, are composed wholly of lands holden as seigniories.

" A bill actually passed the assembly, the object of which was to increase the number of the representative assembly. This bill did not become a law, and it appears to have been founded upon the same principle, and to have involved the same error as the original arrangement by Sir Alured Clarke. It has been stated by one of the witnesses, that under the proposed division, a disproportionable increase would have been given to the representatives from the seigniories.

" In providing a representative system for the inhabitants of a country which is gradually comprehending in its limits newly peopled and extensive districts, great imperfections must necessarily arise from proceeding, in the first instance, on the basis of population only. In Upper Canada, a representative system has been founded on the compound basis of territory and population. This principle, we think, might be advantageously adopted in Lower Canada.

" One of the obstacles which is said greatly to impede the improvement of the country is, the practice which has prevailed in making grants of land in large masses to individuals who had held official situations in the colony, and who have evaded the conditions in the grant, by which they were bound to provide for its cultivation, and now wholly neglect it, although powers have been latterly acquired by the government to escheat these lands; and although we think that under certain modifications this power may be advantageously used, we are nevertheless of opinion that a system should be adopted similar to that in Upper Canada, by the levy of a small annual duty on lands unimproved and unoccupied, contrary to the conditions of the grant.

" It now becomes the duty of your committee to advert to the petitions signed by the inhabitants of the seigniories, on the important subjects contained in them. They thought it right to call for explanation from Mr. Neilson, Mr. Viger and

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Mr. Cuvillier, members of the assembly of Lower Canada, who had been deputed to this country for the purpose of seeking redress for the injuries complained of by the petitioners.

"From the testimony of these gentlemen we have learned, with the deepest regret, that the disputes which have arisen between the government and the house of assembly, originating (as they appear to have done) in doubts as to the right of appropriating, and accounting for a considerable portion of the public revenues, have led to a state of confusion and difficulty in the administration of public affairs in the colony, which calls for a decisive and early remedy.

"With a view to understand accurately the grounds of this dispute, the committee have carefully examined into the different sources of revenue arising in Lower Canada, and they have examined also the public documents which have enabled them to trace the successive steps which had been taken by the contending parties in these disputes. Your committee beg leave to refer to the evidence of Mr. Neilson and of Mr. Wilmot Horton, for a detailed account of the origin and progress of these differences.

"Upon this important subject your committee have felt that they should not do wisely in confining their views to a critical examination of the precise meaning of the words of the different statutes—they look rather to the circumstances of Lower Canada—to the spirit of its constitution—to the position and character of the local government, and the powers, privileges and duties of the two branches of the legislature.

"Although from the opinion given by the law officers of the crown, your committee must conclude that the legal right of appropriating the revenues arising from the act of 1774, is vested in the crown, they are prepared to say that the real interests of the province would be best promoted by placing the receipt and expenditure of the whole public revenue under the superintendance and controul of the house of assembly.

"On the other hand, your committee, while recommending such a concession on the part of the crown, are strongly impressed with the advantages of rendering the governor, the members of the executive council, and the judges independent of the annual votes of the house of assembly, for their respective salaries.

"Your committee are fully aware of the objections in principle, which may be fairly raised against the practice of voting the permanent salaries to judges who are removable, at the pleasure of the crown; but being convinced that it would be inexpedient that the crown should be deprived of that power of removal, and having well considered the public inconvenience which might result from their being left in dependence upon an annual vote of the assembly, they have decided to make the recommendation, in their instance, of a permanent vote of salary. Chap. xxvii. 1828.

"Although your committee are aware that the grant of permanent salaries has been recommended to a much greater number of persons connected with the executive government, than they have included in their recommendation, they have no hesitation in expressing their opinion, that it is unnecessary to include so large a number, and if the officers above enumerated, are placed on the footing recommended, they are of opinion that all the revenues of the province (except territorial and hereditary revenues) should be placed under the controul and direction of the legislative assembly.

"Your committee cannot close their observations on this branch of their enquiry, without calling the attention of the house to the important circumstance, that in the progress of these disputes, the local government has thought it necessary through a long series of years, to have recourse to a measure (which nothing but the most extreme necessity could justify) of annually appropriating by its own authority, large sums of money of the province, amounting to no less a sum than £140,000 without the consent of the representatives of the people, under whose controul the appropriation of these monies is placed by the constitution.

"Your committee cannot but express their deep regret that such a state of things should have been allowed to exist for so many years in a british colony, without any communication or reference having been made to parliament on the subject.

"Upon the several points referred to your committee connected with the office of receiver general, of the sheriffs, and of the jesuits estates, your committee proceeded to examine evidence on each. The facts of the case as regards the receiver general, Mr. Caldwell, are detailed in Mr. Neilson's evidence. Mr. Caldwell was a defaulter in 1823 for £96,000

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of the public money of the province. Upon an examination of the accounts by the house of assembly, no acquittal could be traced from the treasury of a later date than 1814, though some balances were stated up to 1819, and it appeared by documents then produced, that the fact of his deficiency was known for a considerable time before he was suspended.

"Your committee recommend for the future that steps should be taken by efficient securities and by a regular audit of the accounts, to prevent the recurrence of similar losses and inconveniences to the province.

"As connected with this branch of the enquiry, your committee recommend that precautions of the same nature should be adopted with regard to the sheriffs, as it appears that within a few years two instances of the insolvency of these officers have occurred, while possessed, in virtue of their office, of large sums of money deposited in their hands.

"With respect to the estates which formerly belonged to the jesuits your committee lament that they have not more full information, but it appears to them to be desirable that the proceeds should be applied to the purposes of general education.

"One of the most important subjects to which their enquiries have been directed, has been the state of the legislative councils, in both the Canadas, and the manner in which these assemblies have answered the purposes for which they were instituted. Your committee strongly recommend that a more independent character should be given to those bodies, that the majority of their members should not consist of persons holding office at the pleasure of th crown, and they are of opinion, that any other measures that may tend to connect more intimately this branch of the constitution with the interest of the colonies, would be attended with the greatest advantage. With respect to the judges, with the exception only of the chief justice, whose presence, on particular occasions, might be necessary, your committee entertain no doubt that they had better not be involved in the political business of the house. Upon similar points, it appears to your committee, that it is not desirable that judges should hold seats in the executive council.

"Your committee are desirous of recording the principle, which, in their judgment, should be applied to any altera-

tions in the constitution of the Canadas, which was imparted to them under the formal act of the british legislature of 1791. The principle is to limit the alterations which it may be desirable to make by any future british act, as far as possible, to such points as from the relation of the mother country with the Canadas, can only be disposed of by the paramount authority of the british legislature; and they are of opinion, that all other changes should, if possible, be carried into effect by the local legislatures themselves, in amicable communication with the local government.

"Upon the great question of the union of the two Canadas, your committee have received much evidence, to which they desire to call the attention of the house. With reference to the state of public feeling that appears to prevail in these colonies on this momentous subject, your committee are not prepared, under present circumstances, to recommend that measure.

"Your committee, nevertheless, think it highly desirable that some satisfactory arrangement, (and, if possible, one of a permanent nature,) should be effected between the two Canadas, with regard to the imposition and distribution of the customs collected in the St. Lawrence. They trust, however, when the heats which so unfortunately exist shall have subsided, that such an arrangement may be amicably effected.

"It now remains for us to lay before the house the result of our enquiries into the clergy reserves, which appear by the statements of the petitioners from Upper Canada to be the cause of much anxiety and dissatisfaction in the province.

"By the act of 1791, the governor is directed to make, from and out of the lands of the crown within such provinces, such allotment and appropriation of lands for the support and maintenance of a protestant clergy within the same, as may bear a due proportion to the amount of such lands within the same, as have at any time been granted by or under any authority of his Majesty. And it is further provided, that such lands so allotted and appropriated shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be as nearly as the same

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may be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted.

"It was no doubt expected by the framers of this act, that as the other six parts of the land granted were improved and cultivated, the reserved part would produce a rent, and that out of the profits thus realized, an ample fund might be established for the maintenance of a protestant clergy. These anticipations, however, have not as yet been, and do not appear likely to be soon realized; judging, indeed, by all the information the committee could obtain on this subject, they entertain no doubt that these reserved lands, as they are at present distributed over the country, retard more than any other circumstance the improvement of the colony, lying as they do in detached portions of each township, and intervening between the occupations of actual settlers who have no means of cutting roads through the woods and morasses which thus separate them from their neighbours; the allotment of those portions of reserved wilderness has, in fact, done much more to diminish the value of the six parts granted to these settlers than the improvement of their allotments has done to increase the value of the reserve. This we think must be apparent from the results of the attempts which have been made to dispose of these lands. A corporation has been formed within the province, consisting of the clergy of the church of England, who have been empowered to grant leases of those lands for a term not exceeding 21 years. It appears that, in the lower province only, the total quantity of clergy reserves is 488,594 acres, of which 75,639 acres are granted on leases, the terms of which are, that for every 200 acres, 8 bushels of wheat or 25s. per annum shall be paid for the first 7 years; 16 bushels, or 50s. per annum, shall be paid for the next 7 years, and 24 bushels, or 75s. per annum, for the last 7 years. Under these circumstances, the nominal rent of the clergy reserves is £930 per annum: the actual receipt for the last three years has been only £50 per ann. The great difference between the nominal and the net receipt is to be accounted for by the great difficulty of collecting rents, and by tenants absconding. We are informed also, that the resident clergy act as local agents, in collecting the rents; that a sum of £175 has been deducted for the expenses of management; and that, at the date of

the last communication on this subject, £250 remained in the hands of the receiver general—being the gross produce of the whole revenue of an estate of 488,594 acres.

"An attempt has been made to dispose of this estate by sale. The Canada Company established by the act 6th Geo. IV., cap. 75, agreed to purchase a large portion of these reserves at a price to be fixed by commissioners; 3s. 6d. per acre was the price estimated, and at this sum an unwillingness was expressed on the part of the church to dispose of the lands.

"The government, therefore, have made arrangements with the company, and an act has since been passed authorizing the sale of these lands to any person desiring to purchase them, provided the quantity sold, does not exceed 100,000 each year.

"As your committee entertain no doubt that the reservation of these lands in *mortmain* is a serious obstacle to the improvement of the colony; they think every proper exertion should be made to place them in the hands of persons who will perform upon them the duties of settlement, and bring them generally into cultivation.

"That their value, whatever it may be, must be applied to the maintenance of a protestant clergy, there can be no doubt: and your committee regret that there is no prospect, as far as a present and succeeding generation is concerned, of their produce being sufficient for that object. In a country where wholly unimproved land is granted in fee for almost nothing to persons willing to settle on it, it is hardly to be expected, that with the exception of some favoured allotments, responsible tenants will be found who will hold on lease, or that purchasers of such land will be found at more than a nominal price.

"Your committee, however, are happy to find that the principle of the progressive sale of these lands has already been sanctioned by an act of the british parliament. They cannot avoid recommending in the strongest manner the propriety of securing for the future any provision which may be deemed necessary for the religious wants of the community in those provinces, by other means than by a reservation of one-seventh of the land, according to the enactment of the act of 1791. They would also observe that equal ob-

ap. jections exist to the reservation of that seventh which in
VII. practice appears to be reserved for the benefit of the crown,
~ and doubtless the time must arrive when these reserved lands
28. will have acquired a considerable value from the circumstance of their being surrounded by settled districts; but that value will have been acquired at the expense of the real interests of this province, and will operate to retard the course of general improvement, which is the true source of national wealth. Your committee are of opinion, therefore, that it may be well for the government to consider whether these lands cannot be permanently alienated, subject to some fixed moderate payment (either in money or in grain as may be demanded) to arise after the first 10 or 15 years of occupation. They are not prepared to do more than offer this suggestion, which appears to them to be worthy of more careful investigation than it is in their power to give to it; but in this, or in some such mode, they are fully persuaded, the lands thus reserved, ought, without delay, to be permanently disposed of.

"To property at once so large and so unproductive, it appears that there are numerous claimants.

"The act of 1791, directs that the profits arising from this source, shall be applied to a protestant clergy, doubts have arisen whether the act requires the government to confine them to the use of the church of England only, or to allow the church of Scotland to participate in them. The law officers of the crown have given an opinion in favour of the rights of the church of Scotland, to such participation, in which your committee entirely concur; but the question has also been raised whether the clergy of every denomination of christians except roman catholics, may not be included. It is not for your committee to express an opinion on the accuracy which the words of the act legally convey. They, entertain no doubt, however, that the intentions of those persons who brought forward the measure in parliament, was to endow with parsonage houses and glebe lands, the clergy of the church of England, at the discretion of the local government. But with respect to the distribution of the proceeds of the reserved lands generally, they are of opinion that they ought to reserve to the government, the right to apply the money, if they so thought fit, to any protestant clergy

"The committee see little reason to hope that the annual income to be derived from this source, is likely, within any time to which they can look forward, to an amount sufficient to provide for the protestant clergy of these provinces. But they venture to press the early consideration of this subject on his Majesty's government, with the view to an adjustment that may be satisfactory to the province. Of the principle on which the proceeds from these lands are hereafter to be applied, and in deciding the just and prudent application of the funds, the government will necessarily be influenced by the state of the population, as to the religious opinions, at the period when the decision is to be taken. At present, it is certain that the adherents of the church of England constitute but a small minority in the province of Upper Canada. On the part of the Scotch church, claims have been strongly urged on account of its establishment in the empire, and from the number of its adherents in the provinces. With regard to the other religious sects, the committee have found much difficulty in ascertaining the exact numerical proportions which they bear one to another; but the evidence has led them to believe that neither the adherents of the church of England, nor those of the church of Scotland, form the most numerous religious body within the province of Upper Canada.

"The attention of the committee having been drawn to the establishment of the university of king's college at York, in Upper Canada, they thought it their duty to examine the charter granted to that college. That charter was granted under the great seal, and it is to be observed, that it does not impose on the students an obligation to subscribe to the 39 articles, which was done in the case of the other North American colleges.

"Your committee find it provided, amongst other arrangements for the conduct and government of this institution, that the archdeacon of York, for the time being, shall, by virtue of his office, at all times be president of the said college.

"It is further ordained, that there shall be within the said college or corporation, a council, to be called and known by the name of the college council, which shall consist of the chancellor, the president, and of seven professors in arts and faculties of the said college, and that such said professors,

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shall be members of the church of England and Ireland, and shall, previously to their admission, sign and subscribe the 39 articles of religion. To this council, the whole government of the college is confided. Of the great advantage which the establishment of a college for the purposes of general education in Upper Canada is likely to confer upon the province, your committee entertain the strongest conviction; they lament only that the institution should be so constituted as materially to diminish the extent to which it might be useful.

"It cannot, they think, be doubted, as the guidance and government of the college is to be vested in the hands of the members of the church of England, that in the selection of professors, a preference would invariably be shown to persons of that persuasion; and in a country where only a small proportion of the inhabitants adhere to that church, a suspicion and jealousy of religious interference would necessarily be created.

"For these and other reasons, the committee are desirous of stating their opinion that great benefit would accrue to the province by changing the constitution of this body.

"They think that two theological professors should be established—one of the church of England and another of the church of Scotland,—(whose lectures the respective candidates for holy orders should be required to attend)—but that with respect to the president, professors, and all others connected with the college, no religious test whatever should be required.

"Though your committee have now disposed of the most important subjects of the enquiry, they are aware, that on an examination of the petitions and of the evidence, many other matters will appear entitled to consideration.

"The committee think it necessary to observe, that the evidence from Upper Canada has not been equally ample and satisfactory with that which they have had the advantage of receiving from the lower province. Your committee, however, are desirous of directing the attention of government to the Sedition Act, (should it not be found to have expired,) the repeal of which appears to have been long the object of the efforts of the house of assembly of Upper Canada.

"Your committtee beg leave to call the particular attention of the government to the mode in which juries are composed in the Canadas, with a view to remedy any defects that may be found to exist in the present system.

"Your committee lament that the late period of the session in which they were appointed, has rendered a minute investigation into all parts of the subject submitted to them impossible. They believe, too, that if the legislative assemblies and the executive government of Canada can be put on a right footing, that means will be found within the province of remedying all minor grievances. They are disposed, nevertheless, that the prayer of the lower canadians for permission to appoint an ,agent in the same manner as agents are appointed by other colonies which possess local legislatures, should be granted; and that a similar privilege should be extended to Upper Canada, if that colony should desire it.

"At an early period of their investigation, your committee perceived that their attention must be directed to two distinct branches of enquiry:—1st,—To what degree the embarrassments and discontents which have long prevailed in the Canadas, had arisen from defects in the system of laws and the constitutions established in these colonies.—2nd.—How far these evils are to be attributed to the manner in which the existing system has been administered.

"Your committee have clearly expressed their opinion that serious defects were to be found in that system, and have ventured to suggest several alterations that have appeared to them to be necessary and convenient. They also fully admit, that from these as well as from other circumstances, the task of government in these colonies, (and especially in the Lower Province) has not been an easy one; but they feel it their duty to express their opinion that it is to the second of the causes alluded to, that these embarrassments and discontents are in a great measure to be traced. They are most anxious to record their complete conviction that neither the suggestions they have presumed to make, nor any other improvements in the laws and constitutions of the Canadas will be attended with the desired effect, unless an impartial, conciliatory and con-

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stitutional system of government be observed in these loyal and important colonies.

"Your committee had closed their enquiry, and were proceeding to consider their report, when it became their duty to enter into further evidence upon a petition referred to them by the house, and signed by the agents who had brought to this country the petition of 87,000 inhabitants of Lower Canada, of which mention has been made in a former part of their report.*

* "To the honorable the commons of the United Kingdom of Great "Britain and Ireland, in parliament assembled.

"The petition of John Neilson, Denis Benjamin Viger, and "Austin Cuvillier, of the province of Lower Canada, esqrs.

"Humbly sheweth,—That your petitioners were deputed to this country in January last, with the petitions of a great majority of his Majesty's subjects in the province of Lower Canada, addressed to his Majesty and both houses of parliament, complaining of various grievances to which the inhabitants of the said province were exposed in the administration of the local government; two of which petitions have since been presented to your honorable house, and are referred to a select committee on the civil government of Canada, now sitting.

"That since the said petitions were presented, your petitioners have been instructed on the part of the different committees of the aforesaid petitioners in the several counties in the district of Montreal and for the district of Three Rivers, at a general meeting held in the city of Montreal, on the 17th of April last, to add to the complaints contained in their petitions aforesaid, various other acts of mal-administration on the part of the local government, which have taken place since their humble petitions were forwarded to be laid at the foot of the throne and presented to parliament.

"That on the 22d of February last, his excellency the earl of Dalhousie, governor in chief of the said province, issued a general order of militia, dismissing from his Majesty's service divers officers in command of local divisions of the militia of said province, and others, wherein the said officers were accused of "having been active instruments of a party hostile to his Majesty's government."

"That the first and only notice which these gentlemen had of the existence of any complaints against them, was by the publication of the said general order, in the newspaper printed and published by the king's printer at Quebec.

"That the said dismissions and the charge against the said officers, was grounded on no other fact than that they had taken part and acted at the several places of their residence, with the great majority of

" This petition, and the evidence by which it is supported, contain the most grave allegations against the administration of lord Dalhousie, since the period at which those gentlemen left the colony.

" These complaints consist chiefly of the dismissal of many officers of militia, for the constitutional exercise of

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the inhabitants of the said province, in furthering and signing the aforesaid petitions to his Majesty and both houses of parliament.

" That the officers of the several local divisions to which these gentlemen belonged, and several of the committees of the petitioners subsequently expressed and published their opinions of unabated confidence in and esteem for the gentlemen, thus, in common with all the signers of the said petitions, publicly aspersed by the said general order, without trial and without a hearing.

" That subsequently, several prosecutions were instituted under the authority of his excellency the governor in chief, by the attorney general of the said province, against a number of persons concerned in publishing the proceedings of the said officers and committees of petitioners, which prosecutions have been conducted with circumstances of unusual severity, and are still pending.

" That besides these prosecutions a great many others have been instituted by the said attorney general, for offences connected with the politics of the province, and particularly against the press; that in fact, of five newspapers published in the province, which are independent of executive influence or controul, numerous proceedings have been had by the said attorney general, or on the part of the crown, directed against each of them, while the newspapers published under the express authority of his excellency the governor in chief, or subject to executive influence, asperse the character of individuals, and calumniate the representative body, and the inhabitants of the province, their laws, institutions and manners, with entire impunity.

" Your petitioners humbly represent that these proceedings had under the authority of the governor in chief, subsequently to the appeal made to the justice of his Majesty and parliament, together with the continued suspension of the sittings of the provincial legislature, have increased the irritation and alarm which previously existed, and that when the state of the province is fully considered, but especially the peculiarly intimate connexion which prevails therein between the executive authority and the judges, and other officers of the courts of justice, there is danger that the confidence of the subject in Canada, in the security of his person, property and reputation, may eventually be destroyed.

" Your petitioners humbly pray that their petition may be taken into consideration, that they may be heard thereon, and that justice be done in the premises.

" And your petitioners, as in duty bound, will ever pray.

(Signed) " J. Neilson,
" D. B. Viger,
" London, 12th July, 1828." " Austin Cuvillier."

Chap. XXVII. 1828. their civil rights—of the sudden and extensive remodelling of the commission of the peace, to serve (as it is alleged) political purposes—of a vexatious system of prosecutions for libel, at the instance of the attorney-general; and of the harsh and unconstitutional spirit in which those prosecutions have been conducted.

"Your committee have hitherto felt that they should best and most usefully discharge their duty by studiously abstaining from commenting upon the official conduct of individuals; but it is impossible for them not to call the serious and immediate attention of his Majesty's government to these allegations.

"Your committee also feel bound to urge upon his Majesty's government, in the most especial manner, their opinion, that it is necessary that a strict and instant enquiry should take place into all the circumstances attending these prosecutions, with a view to giving such instructions upon them as shall be consistent with justice and policy.

"Your committee learn, with the greatest concern, that disputes have lately arisen in Upper Canada, between the local government and the house of assembly, which have led to the abrupt termination of the session of the legislature of that colony."

The benevolence and wisdom of this report are not be impugned.

Lord Dalhousie, however, after his arrival at home, indignant at the time-serving and truculent manner he deemed himself dealt with, drew up a memoir of his views of the above, which he presented to Mr. Huskisson, the colonial minister, forcibly pointing out the injustice which had been done to his lordship by the report, as well as the great inconvenience and trouble in which its doctrines, if acted upon by the home government, finally must involve it. The report was also critically investigated as a state paper, and its errors of

omission as well as commission forcibly pointed out by some able hand, in the "Quarterly Review," denouncing the whole as unsound, and such as could not, but prove a failure.



Among the money bills passed in 1826, which had been reserved for the signification of the royal pleasure, was one making an appropriation of £500, for the exploration of the wilderness known as "*the King's Posts*," comprehending that tract of country north of the settlements of the district of Quebec, and extending thence northward to the Hudson Bay territory, and east to west from the head waters of the Saguenay, including lake St. John, to the Ottawa. The royal sanction to this appropriation, (voted at the instance of Mr. Andrew Stuart, a popular member of the assembly,) was not proclaimed until the 29th August, 1827, a period too late to fit out an expedition for that season. Two small parties were this summer, (1828,) equipped for the purpose, one of which, under the direction of Joseph Bouchette, esq., deputy surveyor general, leaving Quebec, on the 22d July, proceeded up the St. Maurice, which they ascended to the mouth of the river "La Tuque," a distance of fifty leagues from the entry of the St. Maurice. Ascending the La Tuque to its source, and thence crossing the head waters of the Batiscan, they entered the waters in their neighbourhood which empty into lake St. John, at a point about four leagues above the post of Metabitshuan, the old jesuit establishment upon that

Chap. XXVII. 1828. lake, mentioned by Charlevoix, which they reached on the 23d of August. Here they found the other party, which having left Quebec on the 6th August, under the personal direction of Mr. Stuart, (who, from the interest he had taken in the intended exploration was named by the executive, chief commissioner for the performance of the service, and accompanied the expedition,) had proceeded to Tadoussac, and thence ascending the Saguenay in canoes, had arrived the day before them at Metabitshuan. Mr. Bouchette was here directed by Mr. Stuart, who from this point returned to Quebec, to survey the lake between the mouth of Koushpigan and that of the Assuapmousoin, on the south-western side of lake St. John, and then to explore the country lying on the south-west side of lake Tsinogomi and Tsinogomishish, and upon the waters generally of the communication between Chicoutimi and lake St. John, a part of which he accordingly performed previous to his return in the autumn to Quebec viâ Chicoutimi and Tadoussac. But the want of provisions, and the advanced state of the season, prevented Mr. Bouchette from exploring the country south-west of lake Tsinogomi and Tsinogomishish. The expedition under Mr. Stuart's immediate direction, was accompanied by lieut. Baddeley, of the royal engineers, whose geognostical report to be found in the journals of the assembly, is highly interesting, Messieurs Hamel and Proulx, land-surveyors, men of good practical experience,

Benedict P. Wagner, esq., an old and respectable english merchant of Quebec, whose knowledge of the qualities of timber the best adapted for the english markets, and his experience of the facilities or difficulties of its transportation and conveyance to a port or place of shipment, to which his attention had long been turned, enabled him well to judge, had induced Mr. Stuart to invite him to accompany the expedition—with Messieurs Nixon and Goldie, of the 66th regiment of foot. The several reports of these gentlemen stand in the journals of the assembly for 1829, and well worthy of perusal will be found instructive and entertaining.



The commissioners, in their report to the commons of Lower Canada, notice in terms of commendation, Mr. Baddeley's zeal and industry in the geognostical survey, with the report of which he had furnished them, observing, in conclusion, " that the results of this exploration have been more satisfactory than they could have anticipated, and that although much yet remained undone, from the smallness of the means at their disposal, yet that enough appeared from the accompanying plans and documents to demonstrate that this tract of territory could afford habitation and subsistence to vast numbers of men, and thereby add greatly to the military strength of these provinces, and be conducive to the general interests of the empire whereof we have the honor and happiness to form a part." Part of the territory between the St. Maurice and

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the Ottawa, was explored in the course of the summer of 1829, by a party under lieut. Ingall, of his Majesty's 15th regiment, then in Canada, assisted by Mr. John Adams, a surveyor of talents, whose report, to be found in the journals of the assembly for 1830, is also interesting. This observant and indefatigable officer, reports favourably of the capabilities of many parts of the wilderness through which he passed, surveying it with as much attention and accuracy as the time and means at his disposal admitted, ascending the Ottawa to the head of the Grenville Canal, and thence passing through, visiting the lakes and intermediate waters, to the St. Maurice, carefully noting as he went the matters that seemed to him most deserving of his observation and proper to be recorded.

The territory known as the King's Posts, including the Saguenay, lake St. John and streams falling into them, together with the wilderness country furnishing the St. Maurice, had hitherto been monopolized under leases from the government, by companies or individuals, for the fur trade with the indians inhabiting those inland regions, and was therefore closed against colonisation or settlement from other parts of Canada. The expiration of those leases subsequent to the period at which we now are, has since enabled the government to do away with the monopoly, and accordingly, in renewing the leases of those tracts known as the King's Posts, it has reserved to itself the

right of disposing of the lands susceptible of agriculture for the purposes of colonization. Chap. XXVII. 1828.

The sanguine views entertained by Mr. Stuart of those regions watered by the streams flowing into lake St. John, the Saguenay, the Ottawa, the St. Maurice, and the larger intermediate rivers Batiscan, Ste. Anne, Jacques Cartier, &c., were those, it must be admitted, of an enthusiast, and subjected him to the jeers of his friends, and to the imputation of being, in this respect at least, a visionary. They were, in his estimation, a promised land—a land to flow hereafter with milk and honey.* He viewed that territory as destined to become the granary of Lower Canada;—in population,

* The following is from the report (dated 17th February, 1829,) of a committee of the assembly, consisting of Andrew Stuart, John Neilson, and P. De S. Laterrière, esquires, to whom had been referred the geological and other surveys made the previous summer:—

"It appears from these that the river Saguenay is navigable for vessels of any size, for a distance of about twenty-two or twenty-three leagues to Ha-Ha Bay, which is a good harbour, and that from thence for a distance of five or six leagues to Chicoutimi, this river is navigable at high water for vessels of large dimensions. Between the harbour of Tadoussac and that of Chicoutimi, several harbours are found.

"From Chicoutimi to lake St. John, the distance by admeasurement, is sixty-seven miles, sixty-eight chains.

"The waters on the western side of the Peninsula, lying between lake Tsinogomi and the grand outlet of lake St. John, are generally navigable for batteaux, and all might be rendered so.

"The grand outlet of lake St. John, on the eastern side of the Peninsula, is a rapid stream navigable only for canoes, and even in these, dangerous to all but the most experienced canoemen.

"Upon the north-eastern shore of the Saguenay, there seems to be but little land susceptible of culture, till within a short distance from Chicoutimi.

"What extent of ground, susceptible of culture, there may be between the old settlements in the rear of Murray Bay, and St. Paul's Bay upon the St. Lawrence on the one side, and Ha-Ha Bay and the Saguenay and Tadoussac on the other, does not appear.

"Between Chicoutimi and the country immediately in its rear on

Chap. XXVII. 1828. civilization and in power, the future Russia of America and controuler of its destinies. It will, indeed, be yet long ere Mr. Stuart's anticipations are realized, but the rapid progress made since the cessation of the monopoly by

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the one side, and Ha-Ha Bay and the waters emptying into it on the other, it appears there is found 300,000 acres of cultivable land.

" Proceeding from Chicoutiimi to lake St. John, by the western route, it seems probable that the country is not susceptible of culture to the westward of the river Chicoutimi, as far as the lowest extremity of lake Tsinogomi. From lake Tsinogomi to lake St. John, there is, according to the report of traders and indians, a deep tract of level and fertile country.

" Your committee, however, cannot speak with certainty upon this part of the country, as the surveyor charged with exploring it, was prevented by accidental circumstances from accomplishing the object.

" The Peninsula lying between Tsinogomi and the grand outlet of lake St. John, is said to contain two hundred and fifty thousand acres of level and fertile land.

" On the south-west side of lake St John, the mountains approach near the lake, and beyond them the whole country lying to the westward, until the river St. Maurice is reached, is altogether unsusceptible of culture, with the exception of a few patches too inconsiderable to be particularised.

" The north-eastern side of lake St. John, contains much good land.

" The following is a table of latitudes as taken by lieut. Baddeley, of the royal engineers, with an artificial horizon :—

| | | | |
|---|---|---|---|
| " Rivière La Fleur,..... | 46. | 53" | 40' |
| " Chicoutimi,..... | 48. | 24 | 9 |
| " Tadoussac,..... | 48. | 6 | 39 |

" The climate of Chicoutimi, and lower down the Saguenay, seems to be much like that of Quebec, whilst it would appear, that about lake St. John, the climate is as mild as that of Montreal, perhaps milder.

" The monies placed at the disposal of the commissioners, did not admit of their obtaining all the information, which it would be desirable to have. To complete our knowledge of the country, it would be requisite :—

1. " To explore in every direction the country lying in the rear of Murray Bay, and to St. Paul's Bay on the St. Lawrence on the one side, and Ha-Ha Bay, the Saguenay and Tadoussac on the other.

2. " To explore the country lying between Chicoutimi and lake St. John, upon the south-west side of the river Chicoutimi, lake Tsinogomi, &c.

3. " To explore the old route from Charlesbourg to the Saguenay, which strikes the Saguenay half-way between Tadoussac and Ha-Ha Bay.

" To explore the country, likely to afford the most direct commu-

the fur-traders and the opening of the Saguenay country to colozination, in the settlements as well at Chicoutimi as on other parts of the river, containing already a population, it is ascertained, exceeding eleven thousand souls, justify in some sort, his foresight; and who can say that in some distant age his previsions may not, with prophetic accuracy, come to pass? A multitude of settlers from all parts of the district of Quebec, are now that this territory is open to colonisation rushing into it. The legislature has, at the last session, (1849) erected the county of Saguenay into a judicial district. The climate is similar to, if not milder than that of Quebec and even of Montreal. From Chicoutimi, (nearly thirty leagues up the Saguenay from its confluence with the St. Lawrence) to lake St. John and around it, the country is susceptible of agriculture, and thence to the Ottawa, with the exception of a tract extending from the south-west margin of the lake to the St. Maurice, there is a strip of territory said to be upwards of one hundred miles broad, admirably wooded and watered, and unexcelled in fertility by any tract of equal extent on the continent.

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nication from Quebec to the old settlement of the jesuits upon lake St. John, a distance of about 100 miles.

"Enough, however, has been done to establish that there is a vast extent of cultivable land about lake St. John and the Saguenay, and the waters connecting them, upon which it would be desirable to effect settlements.

"It will be for the house in its wisdom to determine whether it may not be expedient to vote an additional sum of money for the obtaining of the required information."

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But it is owing to the generous enterprise of an english merchant of sterling worth and high standing in Canada, William Price, eqsr., that the first settlers who colonised those isolated regions have been enabled to subsist for the time and permanently to locate themselves there. This gentleman, who justly will be considered as the founder and Patriarch of that colony, which, it is possible, looking at the progress in all parts of North America in our own day, in less than fifty years hence, may constitute a government of itself independent of Canada, has, by his princely investments in the erection of grist and saw-mills and other establishments in connexion with the lumbering business on a large scale, on various points of the Saguenay, and by creating a direct trade thence with England, afforded employ and the means of settling on that river, to thousands, who otherwise never could have succeeded nor would have dreamt of emigrating thither from the populous settlements in Lower Canada. More truly great than the invader, who, to win an empire, devastates provinces and converts them into a desert, is he who subdues the wilderness to agriculture and turns the dreary forest into smiling fields,—the resorts of uncivilized man, and of the savage beasts of the thicket, into seats of industry and of civilization. The enterprise and public spirit of this gentleman, whose name will go down to posterity as that of a benefactor to the country, and of the human race, have contributed more than the

government and legislature of Canada ever have done, or could do, for the colonisation and permanent prosperity of those parts, by affording full scope to the industry of those who have chosen to emigrate thither, and an ample recompense for it in the demand for produce of all descriptions which his noble establishments have created. If the splendid day dreams of the late Mr. Andrew Stuart, whose foresight and capacious mind, none who knew him will make light of, are ever realized; and who can say at this early date of our country's history and career, they will not be?—and thrifty villages, the abodes of an industrious and happy population be widely spread abroad over the Saguenay country, now but at the outset of its colonisation,—large and populous towns grow up, the seats of opulence and the arts—and, finally, a vast capital—some new Petersburgh, the seat of its empire shall arise—proudly, indeed, may the descendants of Mr. Price point at the realm, the foundations of which were laid in the enterprise, the industry and the benevolence of their ancestor—an englishman in every sense of the term—a british merchant, at once worthy of and ennobling the sterling character which, throughout the world those terms imply.



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P. S.—While the preceding chapter was in the hands of the printer and in progress of impression, some documents of very considerable interest came into the writer's possession,

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but too late to enable him to incorporate with the above their contents, consisting of much valuable local and statistical information relative to the new settlements on the Saguenay, down to the present year, (1849) and which, giving a general view of their present state, including that of the large establishments of Mr. Price and of his co-partners in England, engaged in the business carried on in that quarter must, in process of time, become more and more interesting, and therefore ought to be put upon record, as authentic, and that as such may hereafter be referred to and depended upon.

It would appear that this gentleman, like most others who have well deserved of their country and neighbours, having incurred the envy of a portion, instigated, it would seem, by certain clerical persons located in that quarter, of a new order recently from France, and perhaps by other unenglish influences, who, considering him a monopolist of the lumber trade as well as of the most convenient spots for lumbering and mill-seats on the Saguenay, a petition representing him as such to the governor, lord Elgin, and as a local tyrant and oppressor cruelly taking advantage of the necessities of the poor settlers, has been sent in, complaining also of the extravagant prices of the refuse boards, slabs, &c., which the new settlers are obliged, for the purpose of raising their huts, sheds and other erections, to procure at his mills.

This representation, clandestinely prepared,

and sent in as also it seems without notice to Mr. Price or his knowledge, he, on being informed of it, immediately, with a very proper feeling, in justice to himself and friends, met and rebutted by a counter memorial to the governor, accompanied with documentary testimony and explanations which perfectly demolish the whole fabric of misrepresentation and falsehoods by which he was assailed. Mr. P.'s memorial is accompanied by another from Mr. Peter McLeod, of Chicoutimi, a gentleman well known in the district of Quebec, and who represents himself as "a native of Chicoutimi, descended by his mother from the native race," stating also that he "has always resided in that country." His statement fully confirms, it is gratifying to observe, that of Mr. Price, whose imputed character of tyrant and oppressor of the colony on the Saguenay, would strangely indeed contrast with the very different and unblemished one he hitherto has maintained in Quebec, and throughout the province.

The documents are too long for insertion here, but valuable as public and statistical records of the first settlement and progress of the colonisation of the Saguenay under the british government, and the auspices of british commerce, by a british merchant, and on british capital, they deserve and shall have a place in the Appendix. They are dated 10th March and 11th April, 1849, and will be found in the Appendix—letter A.

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LAST YEAR'S TRADE.—We publish to-day the exports and imports from this province in the last year. The trade appears to have exceeded in value, upon the whole, the trade of the foregoing year. We give the following as a mere sketch to establish a comparison, viz:—

IMPORTS.

| | | | |
|---|---|---|---|
| In 1827.... | 619 vessels.... | 152,712 tons.... | 7086 men. |
| In 1828.... | 716 ditto, .... | 183,481 do. .... | 8222 ditto. |
| In favor of 1828,.... | 97 vessels.... | 30,769 tons..... | 1136 men. |

| | |
|---|---|
| In 1827, imported goods paying 2½ per cent., | £743,328 |
| In 1828, ditto ditto | £949,967 |
| Difference in favor of 1828, | £206,639 |

| | |
|---|---|
| In 1827, Rum imported,.. | 953,163 gallons. |
| In 1828, ditto .. | 838,527 ditto. |
| Against 1828,.. | 114,636 gallons. |

EXPORTS.

| | | | |
|---|---|---|---|
| Cleared in 1827.... | 678 vessels.... | 162,094 tons.... | 7523 men. |
| Ditto in 1828.... | 763 ditto.* .... | 191,199 do. .... | 8277 ditto. |
| Diff. in favor of 1828, | 85 vessels, .. | 29,105 tons, ... | 754 men. |

| | | | |
|---|---|---|---|
| Ashes in 1827,.... | 109,381 cwt. | Flour and wheat, | 132,288 bbls. |
| Ditto 1828,.... | 132,732 do. | Ditto | 60,721 ditto. |

The timber imported has been upon the whole greater; but there is a diminution of nearly a half in pipe and puncheon staves.—*Quebec Gazette*, February, 1829.

* Of these 763 clearances, 30 were of new ships built at Quebec, constituting 7272 tons.

It is mentioned in the Montreal newspapers of the month of June of this year, as a matter of public congratulation, that "there is now a mail made up at the post-office, Montreal, for the United States, four times a week;—namely—on Mondays, Tuesdays, Thursdays and Saturdays, at half-past two o'clock in the afternoon."

ERRATUM.—Page 202, for "The benevolence and wisdom of this report are not be impugned," read—The benevolence and wisdom of this report are not *to* be impugned.

# CHAPTER XXVIII.

Sir James Kempt's policy towards conciliation—accountants for public monies desired to render their accounts—parliament convoked—Mr. Papineau approved as speaker—speech—singular address in answer to it—message to the assembly on financial matters—resolutions of the assembly thereupon—grievance petitions to the assembly—referred to a select committee of enquiry—address to the administrator for copy of a despatch relating to Sir F. Burton, and for reports of committees of the executive council—answers—estimates for the year—call of the house—vote of supply for the year—advance for the previous year made good—double vote by speaker of the legislative council—resolutions of the assembly on the petition of grievances from the county of York—submitted to his excellency—vote of thanks to Messrs. Neilson, Viger and Cuvillier—Sir J. Mackintosh and Mr. Labouchere—Mr. Christie expelled the assembly—reasons—various proceedings by the assembly—address to advance money-refused—militia bill—address on militia dismissals—another relating to jesuits' estates—speech and prorogation—abusive system commenced of paying witnesses—results of the session—representation bill passed by the two houses, but reserved for the royal pleasnre—bill to disqualify the judges from sitting in either of the councils—rejected by the legislative council—trade and prosperous state of the province—new system of summoning jurors—money appropriations since 1814, for internal communications, &c.

LIEUTENANT General Sir James Kempt had served a short time in the Canadas during the late american war, but was not engaged in any

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of the military occurrences by which it was characterised. He had been quarter-master general of the forces in these provinces during Sir James H. Craig's administration, having in that capacity accompanied him to this country, retiring also with him upon his return to England. He consequently was no stranger to canadian affairs, nor to the difficulties which beset his new position, very different from that he had recently occupied in the neighbouring province of Nova Scotia. He now came as a statesman and a conciliator, being also, it was said, a personal friend of the minister, Mr. Huskisson, who, it was understood, placed great confidence in his discretion and skill for the task assigned him. But the new governor, from his previous acquaintance with Lower Canada and the impracticable pretensions set up by the dominant party must have felt, before entering upon his work, the utter hopelessness of the enterprise. He, however, it seems, was resolved to spare no pains to appease the agitation, that previously had existed, and to conciliate the agitators; and, accordingly, it soon was apparent to all, that while courting the leading demagogues of the day, with an assiduity approaching to obsequiousness, he studiously affected to keep aloof from those who were known, or believed to have been in the confidence of his predecessor, or favourably disposed towards him; a false and fawning policy that availed him nothing in the end, rightly appreciated as it was, from the outset,

by those even whom it was intended to flatter. Among the first of his political moves was an attempt to silence the press which had supported the administration of lord Dalhousie, as far as it was in his power to do so, without committing himself. The editors of the Quebec Gazette (official) and of the Quebec Mercury, both officials, and as such dependent upon the executive government, were privately admonished, and as they prized the countenance and favour of the government, peremptorily desired by his excellency to avoid, in their respective papers, all political topics of an exciting tendency, particularly in relation to himself, observing that he was confident of and would answer for the success of his own measures, if only they would not officiously interfere with them; an indirect reproof of the course those gentlemen had previously pursued during lord Dalhousie's administration, as they understood it. The press of Montreal, however, was uninfluenced by him and maintained an independent position. A notice, shortly after his arrival, was given in the Quebec Gazette, requiring all persons who had been entrusted with the expenditure of any public monies, such as commissioners for public works, or in other accountable capacities, to make up, and send in their accounts closed to the 10th September, 1828, a measure offensive to some but generally approved of by the public, there being at the time and for years previously, many public accountants, including, it

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was said, several members of the legislature, in arrears as commissioners, and who had not satisfactorily accounted for monies of which, in that capacity, it seems they had been entrusted, with the outlay in their respective localities ;—*douceurs*, in fact, from the executive, to enable them, at the public expense, to maintain the good will of their constituencies and secure their reelection, a system first adopted, during the administration of Sir John C. Sherbrooke, who did not fail soon to perceive that cupidity (then as now) was the ruling passion of the patriots he had to deal with, and accordingly hit upon this plan to " conciliate" them.

The administrator convoked the provincial parliament for the 21st November. There was considerable speculation afloat, as to the manner in which he would treat the difficulty that had arisen between Mr. Papineau and lord Dalhousie about the speakership, which, however, by means of a private conference between the parties, previous to the opening of the legislature, was easily adjusted, and Mr. P. accordingly was confirmed in the speakership.* This being over, he addressed the

* By the speaker of the legislative council,—

" Gentlemen of the assembly,—I am commanded by his excellency to inform you that he does not see fit to declare the causes for which he has summoned this provincial parliament, until there be a speaker of the assembly duly elected and approved. And I am further commanded to enquire whether you have proceeded to the election of a speaker; and, if you have, upon whom your choice has fallen.

" To which Mr. Papineau replied,—may it please your excellency,—in obedience to his Majesty's commands, the house of assembly have proceeded to the election of a speaker, and I am the person upon whom their choice has fallen. I respectfully pray that it may please your excellency to give your approbation to their choice."

legislature in a speech, which, as it afterwards appeared, had been prepared for him in England, and by Sir George Murray, successor in the colonial office to Mr. Huskisson, sent out for his delivery :—

" Gentlemen of the legislative council, and gentlemen of the house of assembly,—His Majesty having been most graciously pleased to confide to me the government of this important colony, it affords me great satisfaction to meet you in provincial parliament.

" Placed in a situation of so much importance, at a period of so much difficulty, I cannot but feel very arduous duties are imposed upon me ; duties indeed, which I should despair of being able to discharge, to the satisfaction of his Majesty, and his faithful and loyal subjects the inhabitants of this province, if I did not look forward, with a sanguine hope, to the enjoyment of your confidence, and your cordial co-operation in the administration of the government.

" Without a good understanding between the different branches of the legislature, the public affairs of the colony cannot prosper ; the evils, which are now experienced, cannot be effectually cured ; the prosperity and welfare of his Majesty's canadian subjects cannot be promoted ; and you may therefore believe that no exertions will be spared on my part, to promote conciliation, by measures in which the undoubted prerogatives of the crown, and your constitutional privileges, will be equally respected.

" His Majesty's government has, however, relieved me from the responsibility attendant upon any measures to be adopted for the adjustment of the financial difficulties that have unfortunately occurred ; and I shall take an early opportunity of conveying to you by message, a communica-

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" Upon which the speaker of the legislative council said, Mr. Papineau,—I am commanded by his excellency to acquaint you that he approves the choice the assembly has made of you to be their speaker, and, relying upon your loyalty, talents and discretion, he doth allow and confirm your election."

" Mr. Papineau then made the usual claim to the privileges of the assembly, to which his excellency's assent was given in the accustomed form."—*Journal of the Assembly*, 1828.

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tion from his Majesty, which I have been specially commanded to make to you upon the subject of the appropriation of the provincial revenue.

"It will be my duty to lay at the same time before you, the views of his Majesty's government upon other topics connected with the government of this province, to which the attention of the ministers of the crown has been called: You will see in them proofs of the earnest desire of his Majesty's government, to provide, as far as may be practicable, an effectual remedy for any case of real grievance; and you may rely on my affording you every assistance towards the elucidation of any questions which may arise for discussion in the course of your proceedings.

"Gentlemen of the house of assembly,—I shall direct the accounts of the provincial revenue and expenditure to be laid before you, as soon as possible, with every explanation respecting them, which it is in my power to afford you.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—Relying on your zeal and diligence in the discharge of your legislative duties, I feel persuaded that you will give your immediate attention to the renewal of such useful acts as may have recently expired; and, indeed, to all matters of public interest that may appear to be of pressing necessity and importance.

"Possessing, as yet, but an imperfect knowledge of the great interests of the province, and the wants of its inhabitants, I refrain, at the present time, from recommending to you measures of public improvement, which it will be my duty to bring under your consideration at a future day. In all countries, however, good roads and other internal communications;—a general system of education, established upon sound principles;—and a well-organised, efficient militia force, are found to be so conducive to the prosperity, the happiness, and the security of their inhabitants, that I may be permitted to mention them, at present, as objects of prominent utility.

"But an oblivion of all past jealousies and dissensions is the first great step towards improvement of any kind; and, when that is happily accomplished, and the undivided attention of the executive government, and the legislature,

shall be given to the advancement of the general interests of the province, in a spirit of cordial co-operation, there is no reason to doubt that Lower Canada will rapidly advance in prosperity; and emulate, ere long, the most opulent and flourishing portions of the North American continent."



The assembly thanked his excellency for his speech, assuring him that his "presence among us in the elevated character of representative of a beloved sovereign gave them high satisfaction." They promised him a cordial and confiding co-operation in his administration of the government, not doubting that his excellency would discharge his arduous duties to the satisfaction of his Majesty, and of his faithful subjects the inhabitants of the province.

"The experience of several years,"—they observed—"and the present situation of the province, unhappily, prove too clearly, that without a good understanding among the several branches of the legislature, it is impossible to remedy the evils now experienced, and to provide for the prosperity and welfare of his Majesty's canadian subjects—and your excellency may be assured that we shall hail with pleasure and eagerly second your endeavours to establish conciliation by measures in which the undoubted prerogatives of the crown and the constitutional privileges of the people will be equally respected."

They begged his excellency to be assured that they would give their respectful consideration to the promised communication from his Majesty, which his excellency intended to con-

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vey to them upon the subject of the appropriation of the provincial revenue. "Good roads and the means of internal communication, a general system of education established on sound principles, an efficient militia, legally organised and sufficiently protected from the abuse of arbitrary authority essentially contribute,"—they observed—"to the prosperity, welfare, and security of a country."

"We have ever,"—continued they—"been convinced of the justice and liberality of his Majesty's government, and we believe it earnestly intends to remedy, as far as possible, the grievances of which we have to complain, of which we find a striking and to us a very consolatory proof in the results of the petitions recently laid before his Majesty's imperial government by a large majority of our constituents, against the multiplied and deeply rooted grievances which have long retarded the progress and prolonged the infancy and weakness of this colony. As soon as the inhabitants of Lower Canada made known to the king the sufferings of the country, and suggested a remedy for those evils,—as soon as their humble petitions were laid at the foot of the throne, the sovereign, ever just towards his faithful subjects, expressly ordered that their petitions should be submitted to the supreme tribunal of the empire. The charges and well-founded complaints of the canadians before that august senate, were referred to a committee of the house of commons indicated by the colonial minister. That committee exhibiting a striking combination of talent and patriotism, uniting a general knowledge of public and constitutional law to a particular acquaintance with the state of both the Canadas, formally applauded almost all the reforms which the canadian people and their representatives demanded and still fervently demand. After a solemn investigation, after deep and prolonged deliberation, the committee made a report, an imperishable monument of their justice and profound wisdom, an authentic testimonial of the reality of our grievances and the justice of our complaints, faithfully inter-

preting our wishes and our wants.*—Through this report, so honorable to its authors, his Majesty's government have become better than ever acquainted with the true situation of this province, and can, better than ever, remedy existing grievances and obviate difficulties for the future. We feel assured that your excellency has it personally at heart to provide for the contentment and welfare of the inhabitants of this province, and we cannot doubt of the weight which the recommendations and testimony of a distinguished officer, whose public career has merited and obtained success by rendering important services to the country, must have with his Majesty. By the concurrence of all these circumstances, we perceive in your excellency a combination of means and facilities for effecting good, such as none of your predecessors has possessed. We shall receive with respectful confidence, the views of his Majesty's government upon the several topics connected with the government of this province, to which the attention of his Majesty's ministers has been called. We consider these topics as of the highest importance to the tranquillity and welfare of the inhabitants of this province, and we humbly thank your excellency for the assistance which you are pleased to offer towards the elucidation of any questions which may arise for discussion in the course of our proceedings.

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"We are sincerely grieved at the arbitrary and manifestly illegal acts, which by depriving the province of the aid of its legislature during the whole of last year, have occasioned very grievous evils, and put your excellency under the necessity of laying before us the accounts of the provincial revenue and expenditure for two years instead of one.—We nevertheless assure your excellency, that we shall apply the most scrupulous attention to those accounts when your excel-

* This imperishable monument, (ludicrously so called, considering the disregard, after all the hyperbole here lavished upon it, subsequently manifested towards its recommendations by the assembly of Lower Canada,) was carried, it has been confidently stated, on credible authority, but by a casting vote in the Canada committee, and never at any time became a subject of discussion before the house itself. The colonial minister adopted it, however, as his text-book or guide in Canada matters, and never could he have adopted one more fallacious.—*See report of Select Committee of the legislative council of Upper Canada on the state of the province*, 1838.

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lency shall have laid them before us, and that we shall gratefully avail ourselves of any explanations which your excellency may be pleased to communicate to us respecting them.

"We respectfully assure your excellency that the sole but infallible remedy for the jealousies and dissensions, of which an oblivion is assuredly the first step towards improvement of any kind is a conciliatory, impartial and constitutional administration, such as we confidently expect from your excellency; and in that conciliatory hope we shall make every endeavour in order that the executive government and the legislature may apply their undivided attention to the advancement of the general interest in a spirit of cordial co-operation. And we doubt not that with such advantages, Lower Canada will rapidly advance towards prosperity, and emulate, ere long, the most opulent and flourishing portions of the North American continent."

After the presentation of this rather flighty address (the production of Mr. Vallieres) to the administrator, and for which, though unnecessarily reflecting upon his predecessor, he thanked them, the promised communication was laid before the assembly.* And now, by those

* "His excellency the administrator of the government avails himself of the earliest opportunity of conveying to the assembly, the following communication which he has received the king's commands to make to the provincial parliament..

"In laying the same before the assembly, his excellency is commanded by his Majesty to state, that—

"His Majesty has received too many proofs of the loyalty and attachment of his Canadian subjects, to doubt their cheerful acquiescence in every effort which his Majesty's government shall make to reconcile past differences, and he looks forward with hope to a period when, by the return of harmony, all the branches of the legislature will be able to bestow their undivided attention on the best methods of advancing the prosperity, and developing the resources of the extensive and valuable territories comprised within his Majesty's canadian provinces.

"With a view to the adjustment of the questions in controversy, his Majesty's government has communicated to his excellency Sir James Kempt, its views on different branches of this important subject; but as the complete settlement of the affairs of the province cannot be effected but with the aid of the imperial parliament, the

who knew not the intensity of the prejudices and passions that were at work, it was vainly

instructions of his excellency are at present confined to the discussion of points alone, which can no longer be left undecided without extreme disadvantage to the interests of the province.

"Among the most material of these points the first to be adverted to, is the proper disposal of the financial resources of the country; and with the view of obviating all future misunderstanding on this matter, his Majesty's government have prescribed to his excellency the limits within which his communications to the legislature on this matter are to be confined.

"His excellency is commanded by his Majesty to acquaint the assembly, that the discussions which have occurred for some years between the different branches of the legislature of this province respecting the appropriation of the revenue, have engaged his Majesty's serious attention, and that he has directed careful enquiry to be made, in what manner these questions may be finally adjusted with a due regard to the prerogative of the crown, as well as to their constitutional privileges,—and to the general welfare of his faithful subjects in Lower Canada.

His excellency is further commanded to state that the statutes passed in the 14th and 31st years of the reign of his late Majesty, have imposed upon the lords commissioners of his Majesty's treasury, the duty of appropriating the produce of the revenue granted to his Majesty by the first of these statutes; and that, whilst the law shall continue unaltered by the same authority by which it was framed, his Majesty is not authorised to place the revenue under the control of the legislature of this province.

£25,500
5,000
4,200
£34,700

The proceeds of the revenue arising from the act of the imperial parliament, 14. Geo. III, together with the sum appropriated by the provincial statute 35. Geo. III., and the duties levied under the provincial statutes 41. Geo. III., cap. 13 and 14, may be estimated for the current year, at the sum of £34,700.

14. Geo. 3.
35. Geo. 3.
41. Geo. 3.

The produce of the casual and territorial revenues of the crown and of fines and forfeitures may be estimated for the same period at the sum of £3,400.

Casual revenue,.. £3,000
Fines,&c. 400
£3,400

These several sums making together the sum of £38,100 constitute the whole estimated revenue arising in this province, which the law has placed at the disposal of the crown.

His Majesty has been pleased to direct that from this collective revenue of £38,100, the salary of the officers administering the government of the province and the salaries of the judges shall be defrayed. But his Majesty being graciously disposed to mark, in the strongest manner, the confidence which he reposes in the liberality

hoped that the business of reciprocal conciliation would be commenced;—but petitions of

and affection of his faithful provincial parliament, has been pleased to command his excellency to announce to the assembly, that no further appropriation of any part of this revenue will be made until his excellency shall have been enabled to become acquainted with their sentiments, as to the most advantageous mode in which it can be applied to the public service; and it will be gratifying to his Majesty, if the recommendation made to the executive government of the province on this subject shall be such as it may be able with propriety, and with due attention to the interest and the efficiency of his Majesty's government to adopt.

"His Majesty fully relies upon the liberality of his faithful provincial parliament to make such further provision as the exigencies of the public service of the province (for which the amount of the crown revenues above mentioned may prove inadequate) may require.

"The balance in the hands of the receiver general, which is not placed by law at the disposal of the crown, must await the appropriation which it may be the pleasure of the provincial legislature to make.

"His excellency is further commanded by his Majesty to recommend to the assembly, the enactment of a law, for the indemnity of any persons who have heretofore without authority signed or acted in obedience to warrants for the appropriation to the public service of any unappropriated monies: And his Majesty anticipates that they will, by an acquiescence in this recommendation, shew that they cheerfully concur with him in the efforts which he is now making for the establishment of a permanent good understanding between the different branches of the executive and legislative government.

"The proposals which his excellency has been thus instructed to make for the adjustment of the pecuniary affairs of the province, are intended to meet the difficulties of the ensuing year, and he trusts that they may be found effectual for that purpose.

"His Majesty has, however, further commanded his excellency to acquaint the assembly that a scheme for the permanent settlement of the financial concerns of Lower Canada, is in contemplation, and his Majesty entertains no doubt of such a result being attainable, as will prove conducive to the general welfare of the province, and satisfactory to his faithful canadian subjects

"The complaints which have reached his Majesty's government respecting the inadequate security heretofore given by the receiver general and by the sheriffs, for the due application of the public monies in their hands, have not escaped the very serious attention of the ministers of the crown.

"It has appeared to his Majesty's government that the most effectual security against abuses in these departments, would be found in enforcing in this province, a strict adherence to a system established under his Majesty's instructions in other colonies, for preventing the accumulation of balances in the hands of public accountants, by obliging them to exhibit their accounts to a competent authority, at

grievances, past, and present, had been prepared during the vacation, and it was deemed short intervals, and immediately to pay over the ascertained balance into a safe place of deposit;—and in order to obviate the difficulty arising from the want of such place of deposit in Lower Canada, his excellency is authorised to state that the lords commissioners of his Majesty's treasury will hold themselves responsible to the province for any sums which the receiver general or sheriffs may pay over to the commissary general, and his excellency is instructed to propose to the assembly, the enactment of a law, binding those officers to pay over to the commissary general such balances, as upon rendering their accounts to the competent authority, shall appear to be remaining in their hands, over and above what may be required for the current demands upon their respective offices; such payments being made on condition that the commissary general shall be bound on demand to deliver bills on his Majesty's treasury for the amount of his receipts.

"His excellency is further instructed to acquaint the assembly, that although it was found necessary by an act passed in the last session of the imperial parliament, 9, Geo. IV., cap. 76, sec. 26, to set at rest the doubts which had arisen, whether the statute for regulating the distribution between the provinces of Upper and Lower Canada, of the duties and customs collected at Quebec, had not been inadvertently repealed by the general terms of a later date, his Majesty's government have no desire that the interference of parliament in this matter should be perpetuated, if the provincial legislatures can themselves agree upon any plan for a division of these duties which may appear to them more convenient and more equitable; and on the whole of this subject, his Majesty's government will be happy to receive such information and assistance as the assembly of this province may be able to supply.

"The appointment of an agent in England, to indicate the wishes of the inhabitants of Lower Canada, appearing an object of great solicitude with the assembly, his Majesty's government accede to the desire expressed by the house of assembly upon this head; provided that such agent be appointed, as in other british colonies, by name in an act to be passed by the legislative council and assembly, and approved by the executive government of the province; and his Majesty's government are persuaded that the legislature will not make such a selection as to impose on the government the painful and invidious duty of rejecting the bill on the ground of any personal objection to the proposed agent.

"His Majesty's government is further willing to consent to the abolition of the office of agent as it is at present constituted, but it is trusted that the liberality of the house of assembly will indemnify the present holder of this office, to whose conduct in that capacity no objection appears ever to have been made; indeed, without some adequate indemnity being provided for him, it would not be compatible with justice, to consent to the immediate abolition of his office.

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necessary, in vindication of the offended majesty of the people, to lay them before their representatives convened in parliament, an omen auguring little in favor of the conciliatory policy of those who held the leading strings in in the assembly. Grievance petitions consequently poured in from various quarters, first from the county of York, next from Montreal, and subsequently from other places, one only of which, that the reader may understand of what, in part at least, the alleged grievances

"His Majesty's government being very sensible of the great inconvenience which has been sustained, owing to the large tracts of land which have been suffered to remain in a waste and unimproved condition, in consequence of the neglect or poverty of the grantees, it has appeared to his Majesty's government to be desirable that the laws in force in Upper Canada for levying a tax upon wild land, on which the settlement duties had not been performed, should be adopted in this province, and his excellency is instructed to press this subject on the attention of the assembly with that view.

"The attention of his Majesty's government has also been drawn to several other important topics; among which may be enumerated:—The mischiefs which are said to result from the system of tacit mortgages effected by a general acknowledgment of a debt before a Notary; the objectionable and expensive forms of conveyancing said to be in use in the townships; the necessity of a registration of deeds; and the want of proper courts for the decision of causes arising in the townships; regulations affecting matters of this nature can obviously be most effectually made by the provincial legislature, and his excellency is commanded to draw the attention of the assembly to these subjects, as matters requiring their early and most serious attention.

"In conclusion, his excellency has been commanded to state, that his Majesty relies for an amicable adjustment of the various questions which have been so long in dispute, upon the loyalty and attachment hitherto evinced by his Majesty's canadian subjects and on that of the provincial parliament; and that his Majesty entertains no doubts of the cordial concurrence of the assembly, in all measures calculated to promote the common good, in whatever quarter such measures may happen to originate."

These recommendations, with very few exceptions, were disregarded by the assembly; those only relating to tacit mortgages, conveyancing of township lands, and registry offices in the townships having been attended to.

consisted, it is deemed necessary to submit to his perusal.* 

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* "A petition of divers inhabitants of the county of York, whose names are thereunto subscribed, was presented to the house by Mr. Labrie, and the same was received and read; setting forth, :—That since the premature prorogation of the provincial legislature by his excellency the earl of Dalhousie, late governor in chief of this province, on the 7th of March, 1827, many important and serious inconveniences have afflicted the people of this province, threatened completely to undermine the most valued and best secured privileges of his Majesty's subjects, and have excited a degree of uneasiness and alarm prejudicial to their repose and to the good government of the province. By exercising the royal prerogative, first to prorogue and then to dissolve a parliament, which although it had already made much progress in the public business, had nevertheless to terminate several important bills which were necessary to the general interests of the colony, the passing of which that prorogation prevented, and by his subsequent conduct in the several acts of his administration, his excellency the earl of Dalhousie deprived the country of the sessions of its parliament, and committed several other abuses and grievous acts, which have been fully set forth in the petitions to the king and the imperial parliament, by the inhabitants of several districts of this province, to the investigation of which the petitioners beg leave to call the house, and upon which a numerous committee of the honorable the house of commons agreed upon a report, which contains several very wise decisions and recommendations. The petitioners are extremely desirous that this report should avail for the passing of all the laws which are necessary to remedy past evils, correct existing abuses, and prevent their recurrence. Among these would be an act of appropriation for defraying the expenses of a colonial agent at the seat of government. A law to compel persons in charge of the public monies to give sufficient security. Another for the qualification of the persons who might be admitted into the executive and legislative councils, for securing the independence of those bodies, from which the judges and officers having salaries during pleasure should be excluded. Another for rendering effectual the disposition evinced by the imperial parliament to restore to the country, for the purposes of education, the estates possessed in this province by the late order of jesuits. The passing of a law to constitute and regulate a militia force in the province, is among the number of the benefits which the petitioners expect from the labours of the house. The earl of Dalhousie having prorogued the legislature, and thereby deprived the country of a militia law, soon perceived his error,—but instead of adopting the legal course of convening the parliament, he took it upon himself to re-establish the superannuated ordinances, long ago repealed by solemn acts of the provincial legislature, thereby assuming the exercise of a legislative power, which the constitution has wisely invested in the three branches. It is the more to be lamented, that those ordinances should have been revived, as they were passed at a time when the country had not as yet acquired the

Chap. XXVIII. These were referred to a select committee for investigation, with the usual powers to send

1828. full rights of a british country, and as they contain provisions subversive of those very rights, and have a tendency to cause a military despotism, instead of constitutional liberty, to prevail. It has even come to the knowledge of the petitioners that excellent jurists have declared that those ordinances never were legally in force, the Quebec Act not authorizing the legislative council to pass such laws. Thus, by the illegal and arbitrary conduct of the earl of Dalhousie on that occasion, embarrassing and burdensome duties, destructive of the liberties of the inhabitants of this province, have been imposed upon them. They have been taken from their occupations to be forced to toilsome exercises having no object. They have been prosecuted before tribunals established by virtue of those ordinances—have been condemned there to disgraceful and serious penalties—have been cast into prison for breaches of these pretended laws ; and this when public opinion and that of the most learned jurists were expressed against the pretensions of the executive government on the subject, and when the peculiar and dependent situation of those judges who declared their legality offered good grounds for a want of confidence in their decision. Thus also it is, that by exteuding the same despotic principles, the earl of Dalhousie exercised the powers with which he was invested as commander in chief to dismiss from their commissions in the militia, officers who had not chosen to eulogise and support among the electors of the province his errors. These abuses of power have been no where more conspicuous than in the county of York, where the most worthy citizens have been deprived of the situations they held to the satisfaction of the inhabitants, both in the militia and in the magistracy—which was done in consequence ef false accusations of disloyalty, maliciously brought against them by lieut. colonel Dumont, and some other adherents of the administration, although they had done no more than exersise the indisputable right of every british subject, to complain of abuses, and present petitions to the king and his parliament, whereby through illegal and frivolous pretexts those officers have been punished and outraged, as the inhabitants themselves have been, who have thus been deprived of the services of those who possessed their confidence, in order to their being replaced by persons whom they cannot respect, and who, in case of the re-organizing of the militia under a new law, are not qualified as is necessary for that command. The petitioners have not witnessed with less regret the pretensions of the late governor in chief respecting the application of the public monies which he has illegally issued from the provincial funds when no law authorised his so doing. These breaches of the constitution, repeated as they have been, cannot, in the humble opinion of the petitioners, be otherwise than dangerous in themselves, fit to excite discontent in the subject and to induce in the government a systematic contempt of the law, and an extremely pernicious state of confusion and anarchy. The petitioners wish to call the attention of the house to the prosecutions instituted by the attorney general against several persons for libel and

for persons, papers and records, and to report thereupon with all convenient despatch, and they accordingly proceeded to investigate the matters complained of, sending for and examining various persons, recording their statements and reporting from time to time to the house. Four successive reports were made by the committee upon the petitions referred to them, each of which, in print, constituted a considerable volume, but of a vindictive rather than conciliatory aspect. The assembly took up the

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other pretended misdemeanors, alleged to have been committed at the late elections, the exorbitant security required of the accused, the severe manner of proceeding against them, and above all the attempt to bring them before a special jury, a course neither sanctioned by law nor usage; are so many circumstances which have alarmed the inhabitants of this province, and which could not remain unpunished without danger to the liberties, the fortunes, and even the lives of the citizens. Unwilling to conceal any of the grievous abuses which have come to their knowledge, and by which they have suffered themselves, the petitioners think it proper here to mention, that at the late elections for the county of York, E. N. L. Dumont, and John Simpson, esquires, both of them candidates, did, without any kind of necessity or plausibility, cause to be sworn all and every the electors who came forward to vote, a practice which cannot accord with the spirit of the law, which although permitting it to be done when there may be reasonable doubts respecting the qualification of electors, should revolt from that kind of mockery where a candidate subjects aged men, grey with years, solemnly to swear they have reached their twenty-one years. Such a practice can only be regarded as a pernicious abuse and the profanation of the sanctity of an oath. The foregoing allegations are submitted to the house with the greater confidence, as they are in unison with the recommendations of the august house of commons of England, which, after a serious investigation of the grievances set forth in the petitions of the inhabitants of the country, have made a report, in which they express their conviction that they are well founded, and in which they suggest as a remedy several legislative or other measures, of which the petitioners solicit the adoption. Wherefore the petitioners pray the house would be pleased to take their present petition into serious consideration, proceed with rigor against the guilty authors of the evils they complain of, and apply to the grievances and abuses which they have taken the liberty to set forth to the house, such remedy as it shall deem meet."

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message of his excellency relating to the financial matters, and adopted a series of resolutions on the subject, by which it became evident that the so called financial difficulties were still far from adjustment*

* "1. Resolved,—That it is the opinion of this committee, that this house has derived the greatest satisfaction from the gracious expression of his Majesty's beneficent views towards this province, and from the earnest desire of his excellency the administrator of the government, to promote the peace, welfare and good government of the province, as evinced in his excellency's message of Friday last.

"2. Resolved,—That it is the opinion of this committee, that this house has, nevertheless, observed with great concern, that it may be inferred from the expression of that part of the said message which relates to the appropriation of the revenue, that the pretension put forth at the commencement of the late administration. to the disposal of a large portion of the revenue of this province, may be persisted in.

"3. Resolved,—That it is the opinion of this committee, that under no circumstances, and upon no consideration whatsoever, ought the house to abandon or in any way compromise, its inherent and constitutional right, as a branch of the provincial parliament, representing his Majesty's subjects in this colony, to superintend and controul the receipt and expenditure of the whole public revenue arising within this province.

"4. Resolved,—That it is the opinion of this committee, that any legislative enactment in this matter by the parliament of the United Kingdom, in which his Majesty's subjects in this province are not and cannot be represented,, unless it were for the repeal of such british statutes or any part of british statutes, as may be held by his Majesty's government to militate against the constitutional right of the subject in this colony, could in no way tend to a settlement of the affairs of the province.

"5. Resolved,—That it is the opinion of this committee, that no interference of the british legislature with the established constitution and laws of this province, excepting on such points as from the relation between the mother country and the Canadas, can only be disposed of by the paramount authority of the british parliament, can in any way tend to the final adjustment of any difficulties or misunderstandings which may exist in this province, but rather to aggravate and perpetuate them.

"6. Resolved,—That it is the opinion of this committee, that in order to meet the difficulties of the ensuing year, and to second the gracious intentions of his Majesty for the permanent settlement of the financial concerns of the province, with due regard to the interests and efficiency of his government, this house will most respectfully consider any estimate for the necessary expenses of the civil government for the ensuing year, which may be laid before it, confidently trusting that in any such estimate a due regard will be had to that

economy which, the present circumstances of the country and its wants require.

"7. Resolved,—That it is the opinion of this committee, that on the permanent settlement before mentioned being effected with the consent of this house, it will be expedient to render the governor, lieutenant governor, or person administering the government for the time being, and the judges and executive councillors independent of the annual vote of the house, to the extent of their present salaries.

"8. Resolved,—That it is the opinion of this committee, that although his house feels most grateful for the increased security against the illegal application of the public money, which must result from his Majesty's government referring all persons who may have been concerned in such application, to an act of indemnity to be consented to by this house, it will be inexpedient to consent to any such enactment till the full extent and character of such illegal applications may have been fully enquired into and considered.

"9. Resolved,—That it is the opinion of this committee, that this house feels the most sincere gratitude for his Majesty's solicitude to effect the most perfect security against the recurrence of abuses on the part of persons entrusted with the public monies in this province.

"10. Resolved,—That it is the opinion of this committee, that this house has not complained, nor have any complaints been made known to it, respecting the arbitration for the distribution between the provinces of Upper and Lower Canada, of the duties collected in Lower Canada; but that in this, as in every other respect, this house will most cheerfully co-operate in every equitable and constitutional mea- which may be submitted to it, as desirable by the inhabitants of Upper Canada.

"11. Resolved,—That it is the opinion of this committee, that this house has seen with sentiments of the highest satisfaction and gratitude, the declaration of the willingness of his Majesty's government cheerfully to accede to the desires which the assembly has so frequently expressed during the last twenty years, of having an agent in England, to indicate the wishes of the inhabitants of Lower Canada; and that it is expedient to provide for such an appointment without delay.

"12. Resolved,—That it is the opinion of this committee, that so soon as the scheme in contemplation of his Majesty's government for the permanent settlement of the financial concerns of the province shall have been made known and considered, it may be expedient to provide some adequate indemnity to such persons as were placed on the civil establishment of this province, with salaries prior to the year one thousand eight hundred and eighteen, and whose offices may have been found to be unnecessary or require to be abolished.

"13. Resolved,—That it is the opinion of this committee, that this house will cheerfully concur in any measure which may appear most likely to be successful in effectually removing the great inconveni-

of most of those to whom the olive branch was tendered. Nothing short of the overthrow, by

ence which has been sustained from the non-performance of the duties of settlement by grantees or holders of land obtained from the crown, and otherwise remove the obstructions to the settlement of the country, which may have resulted or may hereafter result from the manner in which the powers and superintendence of the crown in this most essential particular as affecting the general prosperity of the province, may have been exercised.

" 14. Resolved,—That it is the opinion of this committee, that it is the desire of this house to take as speedy as possible every means in its power, that the inhabitants of the townships, upon a subdivision of the counties in which they are situated by act of the provincial parliament, shall have a full and equitable representation in this house, of persons of their own free choice, and that the house will cheerfully concur in every measure particularly interesting to the townships, which may appear to be the most desirable to their inhatants and the most conducive to the general welfare.

" 15. Resolved,—That it is the opinion of this committee, that this house is fully sensible of the distinguished mark of confidence reposed in the loyalty and attachment hitherto evinced by his Majesty's canadian subjects and their representatives in the provincial parliament, by his Majesty's declaration that he relies on them, for an amicable adjustment of the various questions which have been so long in dispute.

" 16. Resolved,—That it is the opinion of this committee, that amongst those questions not particularly mentioned on the present occasion, this house holds as most desirable to be adjusted and most essential to the future peace, welfare and good government of the province, viz:

The independence of the judges and their removal from the political business of the province.

The responsability and accountability of public officers.

A greater independence of support from the public revenues, and more intimate connection with the interest of the colony, in the composition of the legislative council.

" The application of the late property of the jesuits to the purposes of general education.

" The removal of all obstructions to the settlement of the country, particularly the crown and clergy reserves remaining unoccupied in the neighbourhood of roads and settlements, and exempt from the common burthens.

" And a diligent enquiry into and a ready redress of all grievances and abuses which may be found to exist or which may have been petitioned against by the subject in this province, thereby assuring to all the individual benefit of an impartial, conciliatory and constitutional government, and restoring a well-founded and reciprocal confidence between the governors and the governed."

[*Journal of the Assembly, 6th Decr.*, 1828.

These were laid before the administrator by address, praying his excellency would be pleased to submit the same to his Majesty's government. They were drawn up by Mr. Neilson.

way of retaliation and vengeance, of those whose functions during the late administration, in performance of their official duties, had rendered them odious to the popular leaders, it was said, could conciliate or appease the country, injured and insulted as it had been by the late governor and his minions, whom now, to injure and insult in their turn, by every annoyance imaginable, each and all to whom the late government was obnoxious seemed emulously to strive; and such, in fact was the chief aim of those petitions. Complaints were made to the assembly against the attorney general, Mr. James Stuart and against Mr. justice Kerr, the former by Mr. Wolfred Nelson (who had been returned for the borough of William Henry, in opposition to Mr. Stuart, at the last general election) representing his bearing and conduct during the election, as exceedingly unbecoming an official of his station, and as having abused his office to oppress and tyrannise those who had voted against him—the latter by Mr. Gugy, an advocate practising at the Quebec Bar, representing the conduct of M. Kerr from the bench towards him as capricious and oppressive in the extreme, and in other respects abusive of the judicial powers entrusted to him. A complaint against the district judge of St. Francis, Mr. Fletcher, for alleged oppressive and tyrannical conduct, was also laid before the assembly. Inquiries were instituted upon these complaints, and carried on by the standing committee of grievances through two

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or three succeeding sessions, the result whereof we shall notice in their place.

An address was presented to the administrator, requesting he would lay before the assembly, copy of a despatch from the secretary of state for the colonial department, to Sir Francis Burton, of the 30th September, 1825, having reference to another despatch of the 4th June previous. His excellency answered that the despatch not being on record, nor in his possession, he could not comply with the desires of the house. This was the despatch previously alluded to, exonerating Sir Francis Burton from censure for sanctioning the supply bill of 1825, and designated by the stigmatisers of lord Dalhousie's administration as the "concealed despatch," the contents of which, however, were perfectly known and familiar to the public. Another address was sent up requesting he would lay before the assembly certain reports of a committee of the whole executive council, relating to the revenue of the province, and with respect to savings that might be effected in the public expenditure of the departments of the civil government, as made in February, 1822. To this he answered,—"It is, gentlemen, my earnest desire upon all occasions to comply with the requests which I receive from the house of assembly, and more particularly so, when copies of papers are asked; but, as the papers now requested, are copies of reports of his Majesty's executive council in the execution of their

duty, as advisers of the crown, and, as I do not conceive that the contents of such documents can be constitutionally made public in any way, without the sanction and express permission of his Majesty, I am constrained to say, that I have no discretionary power to exercise with respect to them."

Among the various other addresses deserving of particular notice, is one respecting the settlement of the crown lands.*

The administrator sent down the estimates for the current year, at rather a later period of the session than had been expected, and by

* "Resolved,—That an humble address be presented to his excellency the administrator of the government, praying that his excellency will be pleased to take into his favorable consideration, that during the present session, this house has voted considerable sums of money for the opening of highways between this province and the neighbouring provinces, and also for the opening of roads at convenient intervals, leading from the old settlements into the waste lands of the crown, with a view to the formation of new settlements:—that the necessity for this measure is of increasing urgency; that in consequence of the insufficient system followed in granting the crown lands, the population of the old settlements is rapidly becoming redundant:—that a large number of the inhabitants of those parts are reduced to the state of holders of mere building lots, and that their indigence is continually increasing:—that the granting of lands to persons desirous of actual settlement, situated in places which are best fitted for the purpose, would be the most effectual remedy for so serious an evil:—that any attempts to sell the crown lands at a short credit with a liability to forfeiture for non-payment, would be rendered abortive by the severity of the climate, and the frequent failure of the harvest:—that an unavoidable consequence of the system of selling waste lands on credit is, that it renders the toil and privation of years fruitless, since the inability of the settler to give a valid title, prevents his effecting a sale:—that the imprudence of settlers in accepting lands on such conditions must produce serious variance between the subject and the government, which would thus vitiate possession by rendering it uncertain:—that it may please his excellency to take into his favorable consideration a matter so deeply affecting the settler, and to order a grant of land to all actual settlers charged with no other expense to the applicants than those unavoidably attendant on making the grant, and putting them in possession."

Chap. XXVIII. 1829. message accompanying them, called upon the assembly to make the necessary provision required for the purpose, "in aid of the crown revenues." A call of the house on a subsequent day, was immediately ordered, and the estimate forthwith referred to a select committee, to examine it and report thereupon.

The call having taken place, the house proceeded to the estimate and public accounts, adopting in the first place a resolution that no votes to defray the expenses of the past or current year should be drawn into precedent as acknowledging the legality of any expenditure made without the consent of the house, or as determining for any future year, the necessary quantum of any salary, contingent expenses or allowances. The aid voted for the year 1829, was in the terms of the bill of 1825—"such sum out of the unappropriated monies in the hands of the receiver general, as together with the monies already by law appropriated for the purpose should amount to a sum not exceeding £54,542 sterling." Another bill to cover the expenses of the previous year, (1828) was also passed by the assembly and with the present, sent up for the concurrence of the legislative council, where both very narrowly escaped rejection, that for the former year being carried only by the double vote of the speaker of the legislative council, (chief justice Sewell) who, after voting on a division of the council as a member of the body, by which it was equally divided, insisted upon his right (much

questioned at the time) to a casting vote, in consequence whereof the bill was carried.* The bill for the current year was carried by a small majority of two.—( yeas 9, nays 7.)



The house of assembly adopted towards the end of the session, a series of resolutions, in consequence of the complaints in the petition from the county of York, declaratory of the grievances experienced under the late administration. They were, of course, depicted in glowing colours and exaggerated.† They were submitted to his excellency by address, praying he "would take them into his serious consideration, and that the power and authority vested in him should be employed in remedying the abuses and removing the subjects of complaint on which the resolutions were founded," and which he assured the house he would do.

A vote of thanks was passed to John Neilson, Denis B. Viger, and Austin Cuvillier, esquires, members of the house, "for their distinguished services in supporting, with patriotism and talent, the petitions from the inhabitants of this province to the imperial parliament, complaining of divers grievances and serious abuses of the last administration." A vote of thanks

* This assumption by the chief justice of the right of exercising a casting double vote caused much dissatisfaction, and was understood to have been disapproved by constitutional lawyers in England. The case cannot again occur, having been provided against in the Union Act.

† It is unnecessary to introduce them here. The reader who may wish to peruse them, will find them in pages 636-7-8-9 and 10, of the journals of the assembly for 1829.

ap. was also passed to Sir J. Macintosh and
III. Henry Labouchere, esquire, " for the ser-
9. vices they had rendered his Majesty's government in this province, by their able defence of its rights, and by the support they gave to the petitions of the inhabitants thereof."

Mr. Christie, who, had been for the first time returned at the late general election a member of the assembly, as representative for Gaspé, was this session expelled on the report of a select committee of the house, on various allegations of misconduct, but principally on that of having, as an ultra partizan of the late administration, by misadvising the governor, procured the dismissal of certain magistrates from the commission of the peace, for their political opinions and votes in the assembly, and thereby committing a breach of its privileges. The case is unique and ought to be explained, as involving constitutional questions of importance.

Much fault, it is to be observed, had been found with the appointments from time to time of persons to the magistracy, of little or no property or stake in the country, however well qualified in other respects they may have been, against whom, in case of misconduct or abuse of office, it was said, there would consequently be no adequate remedy for damages to those injured by them. The causes of complaint were certainly, in several instances undeniable. To remedy the abuse, a bill was introduced in the assembly, by Mr. Vallieres, early in the session " for the qualification of justices of the

peace." The bill, after a second reading, was in due course, as usual, referred to a select committee to examine it and report thereupon,* which being done, it was then engrossed, read for the third time, and in the ordinary routine sent up to the legislative council for concurrence, where, however, it was rejected. Chap. XXVIII 1829.

Shortly after the appointment of the committee and while the bill was yet under its consideration, an instruction was given the committee, on motion of Mr. Vallieres, the chairman of it, by order of the house "to enquire at what time, and in what manner the office of justice of the peace was introduced in the province, the manner in which they have been, and are appointed, the abuses which have prevailed and exist in the dismissal of justices of the peace, and the means of remedying such abuses." Pursuant to this instruction an inquiry was instituted, by the committee, who, after reporting the bill, went on with the investigation in obedience to the order of reference, sending for and examining a variety of persons with respect to the subject matter referred to them for inquiry, in the course of which, the matters affecting Mr. Christie, without any petition or complaint to the assembly against him, were received and by the committee handed in with their report to the house, the more

* The committee consisted of Messrs. Vallières, Borgia, Cuvillier, Heney and Quesnel.

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important parts whereof are, for the information of the reader, given below.*

1829.

* "In committee on the bill for the qualification of Justices of the Peace.

"Present—Messrs. Borgia, Cuvillier, Heney, Quesnel and Vallières de St. Réal."—[*de St. Real* was an assumed name or title.]

"Mr. Vallières de St. Réal called to the chair.

"Your committee have heard witnesses to verify the manner in which justices of the peace have been and are appointed and dismissed in this province, and have enquired into the abuses which have prevailed and which exist in the appointment or dismissal of justices of the peace.

"Your committee have verified in a satisfactory manner that the laws of England were not consulted by the provincial administration, and that it did not even approach them in the appointment of justices of the peace.

"It appears to your committee that the provincial administration formed no rule, imposed upon itself no restriction on that point, and that the governors have been in the habit of appointing justices of the peace, either at the recommendation of respectable individuals, or at the request of those who wish to obtain the said office, or even at the mere will of the head of the provincial executive, without any recommendation whatsoever.

"Nevertheless, it is proved that since the existence of chairmen of the quarter sessions, holding that situation as an office, the nomination of justices of the peace, has in some sort originated with these officers, by their preparing and submitting to the governor lists of persons whom such chairmen of the quarter sessions thought convenient to recommend to be invested with the magistracy, and although those lists were considered as mere advice submitted to the discretion of the head of the executive, it appears to your committee that the provincial government has generally followed them in the filling up of the commissions of the peace, and that by these means the chairmen of the quarter sessions have openly exercised the power of naming and dismissing their brethren, a power contrary to the independence and dignity of the justices of the peace, and extremely dangerous in the hands of an officer receiving a salary from the executive government, as it puts the whole body of the justices of the peace under the controul of a subordinate officer, who himself only holding his commission and salary under the good pleasure of the government, has neither the rank nor the independence necessary to prevent the king's subjects from seeing with distrust the exercise of such a power over a body whose purity and independence are so strictly connected with the happiness and security of the people.

"Your committee have established that the nomination of chairmen of the quarter sessions, as to an office, has not answered the views of public utility which dictated that innovation.

"Your committee have even established, that Robert Christie, esquire, the present chairman of the quarter sessions for the district of Quebec, some time previous to the date of the last commission of

Mr. Christie, in a petition presented by him, in his place, to the assembly, indignantly repell-

the peace for this district, did openly boast of having suggested to the then governor in chief, the dismissal of Messrs. Quirouet, Neilson, Blanchet, and Belanger, then justices of the peace for the said district, on account of their conduct in this house as members of the provincial parliament, and for having voted and presided at committees who had voted in a contrary sense to the views of the then provincial administration, and publicly declared that all those who did not support all the measures of the administration were not worthy of holding any situations under government; and what much aggravates Robert Christie's fault is, that being himself one of the members of the house, he availed himself of that quality, and of the opportunities which it daily afforded him to spy upon the conduct and votes of the members of this house, and report the same to the governor in chief, with a view of irritating him against the members of this house whose opinion and conduct he so reported; and in truth it appears to your committee that in consequence of those reports, founded on a shameful system of espionage, the said Messrs. Quirouet, Neilson, Blanchet, and Belanger, justices of the peace, upright, active, and universally respected, were dismissed from their office of justices of the peace, by the last commission of the peace, actually in force in the district of Quebec. It appears to your committee that the said Robert Christie, with an intention to shelter himself from all responsibility in causing the said illegal and arbitrary dismissal to be sanctioned by the judges of the court of king's bench for the district of Quebec, addressed himself to them to persuade them to sign the list drawn out by himself of those persons whose names were to be inserted in the new commission of the peace, and it is consoling for your committee to be able to inform your honorable house, that those high functionaries would not contribute in any thing, and did absolutely refuse to sanction such an unconstitutional and unjust act.

"Your committee think it their duty to inform your honorable house that the said Robert Christie, openly avowing that he intended to have the said Mr. Blanchet dismissed, for his conduct in the house of assembly, was daring enough to say to the said Mr. Blanchet, that there was yet time to prevent his dismissal by speaking to Mr. secretary Cochran, and gave him to understand that in promising the said Mr. Cochran to alter his political conduct, the said Mr. Blanchet might be continued in the commission of the peace.

"Your committee cannot help observing with pain how very criminal and contrary to the fidelity due by a subject to his sovereign, was the conduct of the said Robert Christie, for by his perfidious counsel, he engaged the governor in chief to commit a crying injustice; by his imprudent threats and by his boasting, he has divulged and exposed to the light, all the turpitude of such an injustice; he has compromised the dignity and character of the government, and has endeavoured as much as lay in his power to render the government odious, and alienate the affection and confidence of the inhabitants of this province. Those odious dismissals are not the only ones, a great

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ed the allegations thus surreptitiously preferred against him. He represented the report as wholly founded on *ex parté* statements, to his prejudice, from various persons inimical to him, collected irregularly, inquisitorially, and, for the most part, in secret conclave, by the committee, which had never given him an opportunity either of confronting his accusers, or rebutting their testimony, nor had even intimated to him that his conduct was in question—that he consequently was taken by surprise, having, in fact, had no knowledge that such was the case until the report was actually presented and read by the chairman of the committee in the house, from his seat therein, although as a member he had regularly attended, since the opening of the session, the current business thereof every day, without exception, as well in the forenoon of each day on committees to which he was named, as at the sittings of the house in the afternoons and evenings. He also denied that he had infringed or intended it, the privileges of the assembly as imputed to him. The petition represented his abi-

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number of justices of the peace duly qualified, and without reproach, and justly possessing the esteem and confidence of his Majesty's subjects, were dismissed by the last Commissions of the peace in the different districts of this Province, without any form or shew of trial, without even any known complaint; and your committee are well informed that public notoriety attributes those dismissals to the political conduct of those who suffered by them. It is thus that the late administration avenged itself of the people of this province, on the principal citizens, the defenders of their rights, and depositaries of their confidence. It is thus that the royal authority is degraded and rendered odious by those whose duty it was to make it respected and beloved."

lity to disprove several misstatements apparent in the mass of matters received and reported by the committee as evidence against him, and concluded by praying the house "to afford him the advantage of an open and public inquiry and examination at the bar of the assembly, of such persons examined before the committee as he should think proper to cross examine, in order to correct the garbled statements", which he asserted were to be found in the evidence, and "to adduce and examine such other persons in refutation of the evidence of any of them, or of the matters contained in the said report, as he should think proper." This reasonable request was denied him, and owing to the secret and unparliamentary mode in which the proceedings to inculpate him were, from beginning to end, conducted, there were not wanting those who deemed the whole predetermined, and that his accusers who had catered for evidence against him, uniting in themselves the anomalous characters of accuser and judge in their own cause, would have acted a much more seemly part by affording him at least the semblance of a patient and dispassionate investigation, than by the hasty and most severe decision to which they came, visiting him with the utmost severity of their displeasure.



Mr. C., on presenting his petition praying for a hearing by the assembly, before it should pronounce upon this extraordinary report, assuming, on *ex parté* evidence, that he was guilty

Chap. XXVIII. 1829. of a breach of privileges, and condemning him unheard, dwelt on the injustice that would be done him by the house, unless it should grant him the investigation which he now, on the first and only opportunity that had presented itself to him, claimed not less in virtue of his right as a subject under accusation, than as a member of the body whereof a committee had accused him, a claim which the assembly he thought owed it to itself to concede.—He complained of the proceedings of the committee, who, by an inquisition into his political opinions and private conduct, without his participation or knowledge, had subjected him to a species of ostracism alien and unknown to british laws or usages, and from which the constitution was abhorrent. He stated in support of his petition, that if by misconstruction any act of his could be be deemed a breach of privileges, they must have been those of the previous assembly (of which he had not been a member) and not of the present; solemnly disclaiming, however, any such intention with respect to either of them, and expressing a desire, if allowed to enter upon the enquiry and defence he sought, to call for copies of all letters and correspondence that might have passed between him and the executive, in anywise relating to the matters in question as laid to his charge. He asserted that there had been nothing in his official conduct, that he could not justify and reconcile with his duties, duties he had not spontaneously sought for, but which were imposed

upon him as a servant of the government. In fact, that, however misrepresented and maligned his conduct had been, it was conscientous and had been such as under the like circumtances, he could not hesitate again to pursue. Chap. XXVIII. 1829.

This last remark gave great offence, being, it would seem, in the excitement of the moment, misunderstood as boastful, and an avowal of the grave offences laid to his charge, and an insulting declaration,—though certainly neither so expressed nor intended—that what was imputed to him, he would again do under all the circumstances; and accordingly, without granting him the hearing and investigation solicited, or further deliberation, the house in committee on the subject, summarily rejected his petition, adopting the resolutions inserted below,* concluding with a vote of expulsion

* "The solr. genl. (Mr. Ogden) moved in committee, that Robt. Christie, esq., a member of this house, have leave in conformity with the prayer of his petition to this honorable house, of the 11th inst., to cross-examine at the bar of this house, such of the witnesses as have been examined before the special committee to whom was referred the bill relating to the qualification of justices of the peace, and such other witnesses as he shall think proper to examine on the report of the said committee relating to the conduct of the said Robert Christie, esq.

"Mr. Vallieres moved in amendment, the first of a series of resolutions

"The committee divided, yeas 33, nays 4—Messrs. Solicitor General, Leslie, Young and Laterrière.

"The resolutions are as follows:—

1. Resolved,—That the petition of Robert Christie. esq,, is false, contumelious and vexatious, and is an attack by the said Robert Christie, against the honor and privileges of this house.

2. "That Robert Christie, esqr., a member of this house, being chairman of the quarter sessions for the district of Quebec, was commanded by his excellency the earl of Dalhousie, governor in chief of the province, in the course of the year 1827, to prepare and lay before him a list of those persons whom it should to him appear advise-

from the assembly, and precluding him from every prospect of justice at the hands of his able to appoint to the office of justice of the peace, by the new general commission of the peace for the said district.

3. That the said Robert Christie did in fact prepare the said list and submitted it to the justices of the court of king's bench for the district of Quebec, by order of the then governor in chief, for the purpose of having it approved and signed by them, and that the said justices refused to approve and sign the said list.

4. That the said Robert Christie, intentionally, left out of the said list by him made, the names of François Quirouet, John Neilson, François Blanchet and Jean Belanger, esqrs., who had been for many years, and then were justices of the peace for the district of Quebec, and members of this house, for the purpose of causing them to be deprived of the office of justice of the peace, on account of their opinions and the votes they had given in this house.

5. " That in presenting the said list to the justices of the court of king's bench for the district of Quebec, the design of the said Robert Christie, and the aim of his excellency the earl of Dalhousie, were to throw upon the said honorable justices the responsibility and censure which might attach to the arbitrary and illegal dismissals which they proposed to effect by the new commission of the peace, and to save themselves harmless.

6. " That the said Robert Christie, afterwards laid the said list before his excellency the earl of Dalhousie, governor in chief of this province, as a list of the persons with whose names, in the opinion of the said Robert Christie, the new commission of the peace, ought to be filled up.

7. " That on or about the same time, the said Robert Christie, openly and publicly declared his intention of causing the said François Quirouet, John Neilson, François Blanchet and Jean Belanger, to be dismissed from the office of justice of the peace, on account of their political conduct and the votes they had given in this house, and that the said François Quirouet, John Neilson, François Blanchet and John Belanger, were dismissed from said office, because they had voted and presided at committees in this house, at which votes had been passed in opposition to the views of the then provincial administration.

8. That in expressing himself on the subject of the said dismissals, planned by him, the said Robert Christie publicly declared that the time was come when no political neutrality would be permitted; when those who were not friends of the administration would be considered as being its enemies; and that those who would not support lord Dalhousie's administration should hold no place under his government.

9. " That it did not by law appertain to the said Robert Christie, to prepare the said list, and still less to advise the dismissal of his fellow justices of the peace; and that he made the said list and advised the said dismissals voluntarily, and with the criminal intention of restraining and annihilating as far as in him lay, the liberties of

accusers and his judges. Indeed, in the violent party spirit and animosity of the times, a

the people of this province, and the freedom of the opinions and votes of this house.

10. " That in consequence of the list prepared by the said Robert Christie, the said François Quirouet, John Neilson and François Blanchet, members of this house, were dismissed from the office of justice of the peace, by the last commission of the peace, now in force, in and for the district of Quebec, without any other cause than their opinions and votes in this house; and that such is the public rumour and notoriety founded chiefly on the declaration and language of the said Robert Christie, as well before, as after the said dismissals.

11. " That the said Robert Christie, at the time he prepared the said list and advised the governor in chief to the said dismissals, was one of the members of this house, after having been before and up to that time, one of the confidential officers of this house.

12. " That the said Robert Christie openly threatened to cause to be dismissed from the office of justice of the peace and from every other office, all those members of this house who would not support all the measures of the provincial government under the administration of his excellency the earl of Dalhousie; and pointed out, in gross and outrageous language, those members of this house whose opinions and votes had been in opposition to the views of the said administration.

13. " That the said Robert Christie took advantage of the opportunities he possessed, in the first instance as a confidential officer, and afterwards as a member of this house, to become a spy upon the opinions and votes of the members of this house, and did in fact report them to his excellency the earl of Dalhousie, governor in chief of this province, with a design to irritate his excellency against those members of this house whose opinions and votes were in opposition to the views of his excellency, and to induce his excellency to punish them by arbitrary dismissal from office, and by other abuses of the royal prerogative.

14. " That by his reports and perverse counsels, the said Robert Christie induced his excellency the earl of Dalhousie, governor in chief of this province, to abuse the royal authority, for the purpose of arbitrarily and without any legitimate reason dismissing the said François Quirouet, John Neilson and François Blanchet, from the office of justice of the peace, on account of their opinions and votes in this house; that by his avowals and conversation, he exposed and made public the odious motive of these unjust dismissals, and that by these means the said Robert Christie endeavoured to degrade the government, to excite feelings of dislike to the authority of the king, and to destroy the confidence of his Majesty's subjects in the provincial administration.

15. " That the said Robert Christie is guilty of high crimes and misdemeanors, and is unworthy the confidence of his Majesty's government.

16, " That the said Robert Christie is guilty of a high contempt of

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dispassionate hearing and justice, it must be admitted, were scarcely to be expected.

This expulsion was subsequently insisted upon as a disqualification, and he was accordingly re-expelled as politically dead, on the strength of it, at each of the four succeeding sessions in the course of two (that and the following) parliaments, to which his electors perseveringly returned him, until he spontaneously retired. The ulterior proceedings will be mentioned as we proceed.

Besides these proceedings, there was also another indirectly levelled at him. An address was presented to the administrator, in effect, praying that he would be pleased to suppress the office of chairman of the quarter sessions of the peace, as it had appeared to the assembly from the inquiry made upon the subject, that the views of public utility which led to the erection of the office, in the several districts of the province, had not been answered; but that

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this house, and is unworthy to serve or to have a seat as a member thereof.

17. "That the said Robert Christie be expelled this house.

"Ordered,—That a new writ do issue for the return of a knight for the county of Gaspé, in the room of the said Robert Christie."

These, it will readily be admitted, are not encomiums, nor indeed the least flattering, but their insertion here could not with propriety be dispensed with. That they were unproductive of anxiety and pain to the object against whom they were directed, it were more than idle to assert. Yet the reader will perceive that Mr. C., notwithstanding the load of obloquy cast upon him, which he felt and feels to be unmerited, did not actually sink under it, but still survives to tell the tale, and as he trusts, with impartiality. Taking the whole for fact, which it certainly is not, and the severity with which in retribution he was visited, to account, it may be a question which of them, he or his judges, most sinned, against the constitution of the country and freedom of the subject.

on the contrary, this office and the abuses that had grown up with it, during the few years it had existed, had essentially contributed to the discouragement of the most independent and estimable justices of the peace, and to the degradation of the magistracy. To this request his excellency promised that he would give the subject all the attention which its great importance demanded.*

An address was voted in the course of the session to the administrator, praying he would be pleased to order an immediate advance of £200, by way of loan to the curate and church wardens of Lotbinière, towards the relief of certain distressed families in the parish. The subject is noticed on account of the answer, evincing a determination on the part of the home government to put a check upon the abusive habit which had long since been introduced of advancing large sums for various purposes on addresses of the assembly,—"I regret exceedingly,"—said the administrator,—"that it is not in my power to comply with the wishes of the assembly in this instance, his Majesty's secretary of state having instructed me, in a despatch dated 29th September last, not to ap-

* The office in the four districts (Quebec, Montreal, Three Rivers and Gaspé,) was discontinued in Sept. 1830, the assembly having refused, in the session of that year, to vote the salaries. The arrears actually due the incumbents, at the time of the suppressal, nearly £400 each, were not paid until 1835, owing to the difficulties between the executive and assembly relating to the civil list. They were finally paid by the government out of the proceeds of sale of the lands in the Eastern Townships, purchased of it by the British American Land Company.

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ply any part of the unappropriated revenue of the province to public service, or to any object whatever, except in pursuance of an act of appropriation passed by the three branches of the legislature.

The militia bill which had occupied much of the attention of the assembly, was amended in the legislative council, and sent back to the lower house for its concurrence in the amendments, where, by reason of these, it was laid aside. The assembly had, by certain provisions in the bill declaring, it seems, the removals and appointments of officers that had been made since the 1st May, 1827, (the period at which the militia ordinances of 1787 and 1789 came into force, in consequence of the expiration of the militia acts,) illegal and null, intrenched, as the legislative council thought, upon the prerogative, and it therefore struck out the objectionable clauses, an amendment which caused the loss of the bill.

Copies of the reports, by a committee of the house on militia matters and of the evidence and documents, very voluminous, annexed to them, were laid by address before his excellency, with the request that he would "take into consideration the facts established by the evidence, and order such remedy as in justice and wisdom he should judge expedient and indispensable, of abuses so serious, and so injurious to the just rights of his Majesty's loyal canadian subjects." To this the administrator answered that he would not fail to take into

serious consideration the circumstances set forth in the report, with every disposition to afford such remedy as might be in his power for the evils complained of.



The restoration of the jesuits' estates to their original destination, was also again the subject of an address—as were also the estates of the seminary of St. Sulpicians at Montreal,* con-

* "Resolved,—That an humble address be presented to his excellency the administrator of the government, setting forth—That this house has, during the present session of the provincial parliament, voted considerable sums for encouraging the establishment of elementary and other schools adapted for the diffusion of education among all classes of his Majesty's subjects in this province:—That nevertheless it would be inexpedient that too large a portion of the public revenue should be constantly expended in assisting, forming, and endowing or maintaining these establishments, particularly in a country wherein a considerable extent of landed property has been set apart for the education of the youth of the country, the income arising from which might be duly applied for this purpose, praying his excellency to take this subject into his serious consideration and to be pleased to cause to be laid before his Majesty, the prayer of his faithful commons of Lower Canada, that measures may be adopted with all possible despatch, to cause property so affected, and in particular the estates of the late order of jesuits, to be applied to the purposes for which it was originally destined, in accordance with the address of this house to his Majesty, on the 19th February, 1825, and that such property may as soon as possible be placed at the disposal of the legislature, in order that the income arising therefrom may be applied to the purposes of encouraging and diffusing education in this province, and that all further sale of any lands forming part of the said property may be prevented. Praying his excellency also to take into his serious consideration the alarm excited among the inhabitants, by the reports spread abroad on the subject of the property of the church of St. Sulpice at Montreal, and which tended to create a belief that the property of which this establishment (founded above a century and a half ago) has quietly enjoyed under his Majesty's government, for more than sixty years, might pass into other hands, and the unfortunate consequences which might result from such a state of things, and even from any doubt of the security of those possessions, and above all from the idea of a scheme for applying to other purposes those revenues of that property, which was set apart and generally employed up to this day, in diffusing the advantages of education:—Lastly, to take into his serious consideration the advan-

ap. III. 1829. cerning which some uneasiness prevailed from the reports, and by good authority, as already noticed, that had been in circulation, of the intention of the government to assume possession of them. The administrator in answer, stated that he would forward the addresses, and recommend a compliance with the prayer of his Majesty's faithful commons of Lower Canada.

The legislature was prorogued on the 14th March, the administrator giving the royal assent to seventy-two bills, and reserving six for the royal pleasure, among them one "for a new and more convenient subdivision of the province into counties, for the purpose of effecting a more equal representation in the assembly than heretofore."* There was also one for

tages which might result to the encouragement of education, if grants of the crown lands were made for the purpose of endowing or supporting the establishments now existing, or hereafter to be formed for the purpose of education."

* "List of Counties and Members of each, according to the Representation Bill as amended by the legislative council and agreed to by the house of assembly, the 11th March, 1829, taking the population according to the last census of 1825 :—

| *Counties.* | *Members.* | *Places of Poll.* |
|---|---|---|
| 1—Gaspé,..... | 1 | Point Peter. |
| 2—Bonaventure,..... | 1 | Richmond and Hope. |
| 3—Rimouski,..... | 2 | Rimouski and Isle Verte. |
| 4—Kamouraska,..... | 2 | Kamouraska. |
| 5—L'Islet,..... | 2 | L'Islet. |
| 6—Bellechasse,..... | 2 | St. Vallier and St. Gervais. |
| 7—Dorchester,..... | 2 | River Etchemin and St. Nicholas. |
| 8—Beauce,..... | 2 | Between St. Marie and St. Joseph. |
| 9—Megantic,..(1 doubtful) | | Leeds. |
| 10—Lotbinière,..... | 2 | Ste. Croix, |
| 11—Nicolet,..... | 2 | Gentilly and St. Gregoire. |
| 12—Yamaska,..... | 2 | Village St. François. |
| 13—Drummond,..... | 1 | Durham. |
| 14—Sherbrooke,..... | 2 | Sherbrooke and Richmond. |

| *Counties.* | *Members.* | *Places of Poll.* |
|---|---|---|
| 15—Stanstead,..... | 2 | Copp's Ferry. |
| 16—Missisquoui,..... | 2 | Dunham and Freeligsburgh. |
| 17—Shefford,..... | 1 | Frost Village |
| 18—Richelieu,..... | 2 | St. Ours. |
| 19—St. Hyacinthe,..... | 2 | St. Hyacinthe, |
| 20—Rouville,..... | 2 | Ste. Marie de Monnoir. |
| 21—Verchères,..... | 2 | Verchères. |
| 22—Chambly,..... | 2 | Longueuil. |
| 23—Laprairie,..... | 2 | St. Constant. |
| 24—L'Acadie,..... | 2 | St. Marguerite de Blairfindie. |
| 25—Beauharnois,..... | 2 | St. Clément. |
| 26—Vaudreuil,..... | 2 | Vaudreuil and Aux Cédres. |
| 27—Ottawa,..... | 1 | Hull. |
| 28—Deux Montagnes,.. | 2 | St. André and St. Eustache. |
| 29—Terrebonne,..... | 2 | Ste. Rose & Ste. Anne des Plaines. |
| 30—Lachenaye,..... | 2 | St. Roch |
| 31—L'Assomption, .... | 2 | St. Pierre de l'Assomption. |
| 32—Montreal,..... | 2 | St. Laurent. |
| 33—Berthier,..... | 2 | Berthier. |
| 34—St. Maurice,..... | 2 | Yamachiche. |
| 35—Champlain,..... | 2 | River Batiscan. |
| 36—Portneuf,..... | 2 | Deschambault and St. Augustin. |
| 37—Quebec,..... | 2 | Charlesbourg. |
| 38—Montmorenci,..... | 1 | Ste. Anne. |
| 39—Saguenay,..... | 2 | Bay St. Paul and Murray Bay. |
| 40—Orleans,..... | 2 | St. Jean, |
| 41—City of Quebec,.... | 4 | Quebec. |
| 42—Do. Montreal,.. | 4 | Montreal. |
| 43—Three Rivers,..... | 2 | Three Rivers. |
| 44—William Henry,.... | 1 | William Henry. |
| | —84 | |

" In the bill sent up by the assembly the number was 89. The counties of Kamouraska, Bellechasse, Richelieu, St. Hyacinthe, Rouville, Chambly, Laprairie, L'Acadie, Deux Montagnes, Terrebonne, Montreal, Berthier and St. Maurice, each lose one member by the bill as amended by the council, (say 13.) The bill as it came from the council, adds to Rimouski, Beauce, Megantic, (doubtful.) Lotbinière. Sherbrooke, Missisquoui, Lachenaye and Orleans, one each, (say 8,) which leaves the 84 members.

" The bill goes into operation at the next general election only, excepting with regard to the townships, which are to elect representatives next summer, to be present at the next session of the assembly. The townships members in all are nine, and including Beauharnois, which is partly of land in free and common soccage, and partly, *en fief*, eleven. Eight only of these, being for the Eastern Townships, can however, be returned before the general election.

Chap. XXVIII. 1829. religious class of persons denominating themselves *Wesleyan Methodists*. The privileges were to enable the clergy of those denominations to keep registers of baptisms, marriages and burials of individuals of their respective congregations; acts certainly of justice and liberality on the part of the canadian legislature, constituted principally of roman catholics.—They all received the royal sanction and became law. His excellency closed the session with the following speech:—

"Gentlemen of the legislative council, gentlemen of the house of assembly,—After so long and laborious a session, it affords me great pleasure to be enabled to release you from any further attendance in provincial parliament, and to convey to you my best thanks for the great diligence with which you have discharged your legislative duties.

"Your labours have been productive of a variety of useful and important acts, which you have presented to me for his Majesty's assent, and I notice with peculiar satisfaction, the liberality of the appropriations for many objects of great public interest, calculated to promote the general welfare and prosperity of the province. It will be my earnest endeavour to see that monies so liberally granted, are faithfully and judiciously applied to the several objects they are intended to promote.

"Gentlemen of the assembly,—I thank you in his Majesty's name, for the supplies which you have granted, in aid of the revenue already appropriated by law, for defraying the expenses of the civil government, and for the administration of justice.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—Several measures of public importance

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"The principle by which the representation is regulated, by the amendments of the council, is two members for 4,000 inhabitants and upwards, above 1,000 and under 4,000, one. Under 1,000 to vote in the nearest county. The bill sent to the council gave one member for about every 5,000 souls.—*O. Q. G.*

have come under your consideration in the course of the present session, which the pressure of other business, and want of time, have prevented your maturing, but I feel persuaded that they will engage your early attention in the next meeting of the provincial parliament.

"I had entertained a hope, that the inhabitants of the province would have been relieved from any inconveniences to which they may be subjected under the ordinances now in force, by the passing of a militia bill, and I cannot but express my regret that it has not taken place."

The reader will perceive that nothing at all, was settled this session; on the contrary, that all was left in a more unsettled state than ever.* A bill was passed by the two houses, and reserved for the royal pleasure, for continuing the provincial parliament notwithstanding any demise of the crown. It also was sanctioned and became law in 1831. The money appropriations made during this session were exceedingly liberal.† A bill for preventing the judges from sitting and voting in the legislative and executive councils was also passed by the assembly, but lost in the council. In this session commenced, it would seem, in the hunting up and investigation of pretended grievances, the improper and abusive system of paying the witnesses who were either summoned, or who of their own accord flocked to the assembly to make known and deposit on the altar of their country, as it was called, the record of their wrongs, an abuse of itself which ultimately be-

* Mr. Neilson makes, in the Quebec Gazette, the following remarks on the proceedings and result of the session:—"Nothing is settled; time is obtained for settlement; but nearly all the causes and elements of discord remain, and it may again burst forth, like a destructive inundation or a devouring flame."

† £207,187.

Chap. XXVIII. 1829. came a grievance to the country, in the enormous amounts expended by the representatives for this purpose. To two individuals who had come from the district of St. Francis, with complaints to the assembly against the resident judge of the district (Mr. Fletcher) for injuries they had, as pretended, sustained by alleged oppression at his hands, no less than £120 were paid for their attendance and loss of time at the session. This could not fail to produce its necessary fruits, and abundance of witnesses in proof of alleged grievances were accordingly constantly in waiting at the doors of the several grievance committees, which were continued from the present or sprung up in the course of the succeeding sessions.

Some very important acts were passed during the session. There was one in particular, for regulating the office of sheriff, very much needed—another for the erection of light houses on the shores of the St. Lawrence*—a third for the improvement of the internal communica-

* The following resolutions of the assembly on which the bill was framed, are explanatory of the Lights contemplated:—

1. "Resolved, That it is the opinion of this committee, that it would be advantageous to the trade of the country, and facilitate the navigation of the river St. Lawrence, were light-houses built at the east and west end of the island of Anticosti, and at Point des Monts, and a floating-light established at a convenient place in the Traverse.

2. That it is the opinion of this committee, that a sum not exceeding £12,000, cury., be placed at the disposal of his Majesty, for the purpose of building and establishing the said light-houses.

3. "Resolved, That it is the opinion of this committee, that the annual expense of maintaining the said light-houses, be defrayed from the monies levied under the act of the 45th Geo. III. chap. 12, and that the surplus of the said monies, after paying the ordinary expenses authorized by the act, be appropriated towards refunding the said sum of £12,000.

tions—a fourth for the encouragement of elementary education, the three last making large appropriations for these respective purposes.



The trade of the province was in a prosperous condition, as the extracts below (from

4. "Resolved, That it is the opinion of this committee, that as soon as his Majesty's government for the island of Newfoundland, the legislatures of the provinces of New-Brunswick, Nova Scotia and Prince Edward's Island, shall provide for the building of light-houses on the island of St. Paul and on Cape Ray, and grant aids for these purposes, it will be expedient to grant a proportionate sum on behalf of this province."—*Journal of Assembly, 7th Feby.*, 1829.

1. "Resolved, That it is the opinion of this committee, that it is expedient, in conjunction with the provinces of New-Brunswick and Prince Edward Island, to provide for the erection of a light house on St. Paul's island, the consent of the government of Nova Scotia being first obtained for such erection and for the permanent management of the light-house on the said island.

2. "Resolved, That it is the opinion of this committee, that in the event of the government of Nova Scotia withholding its consent, this house will co-operate with the Provinces of New-Brunswick and Prince Edward's Island, for the erection and support of a light-house on any part of the Bird or the Magdalen islands that may be agreed upon.

3. Resolved, That it is the opinion of this committee, that considering the expense about to be incurred for the erection and maintenance of four new light-houses between the entrance of the Gulf of St. Lawrence and the principal port of entry for the provinces of Upper and Lower Canada; and considering also the actual annual expense of the light-house on Green Island, and of the establishment on the island of Anticosti, for affording succour to vessels in distress, the revenue collected at Quebec ought to contribute one-third part of the expense of erecting and maintaining the said light on the island St. Paul, or on either of the Bird or Magdalen islands.

4. Resolved, That it is the opinion of this committee, that an humble address be presented to his excellency the administrator of the government, praying his excellency will be pleased to communicate the foregoing resolutions to the respective governments of the Provinces of New-Brunswick, Nova Scotia and Prince Edward's island, and that his excellency will be further pleased to adopt such measures as he may deem expedient for corresponding and communicating with commissioners appointed by the lieut.-governor of New Brunswick, and with any that may hereafter be appointed by the governments of the other Provinces, for the purpose of establishing a light-house on St. Paul's island, or on any other place that may be considered mutually advantageous to the trade of these provinces."—*Journal of Assembly, 9th March*, 1829.

* £35,290.

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Mr. Neilson's Gazette) abridged from the official returns sufficiently indicate.* The assises at Quebec and Montreal, in the month of March, went over without further proceedings

* "Value of Imports and Exports at the Port of Quebec, in 1828:

IMPORTS.

| | | |
|---|---|---|
| Imports from the United Kingdom, | | £1,078,920 |
| West Indies, | | 152,000 |
| British North American Colonies, | | 59,350 |
| Foreign European States, | | 20,280 |
| China, | | 100,000 |
| United States, | | 6,000 |
| Amount of Imports in round numbers, | | £1,416,550 |

EXPORTS.

| | | |
|---|---|---|
| Exports to the United Kingdom, | £639,900 | |
| Imported goods exported, | 2,140 | |
| Furs and Peltries, | 21,050 | |
| | | 663,090 |
| To the British West Indies, | £67,760 | |
| Imported goods exported, | 970 | |
| | | 68,730 |
| To the British American Colonies, | £68,420 | |
| Imported goods exported, | 3.250 | |
| | | 71,670 |
| To Foreign European States, | £ 580 | |
| The United States, | 390 | |
| | | 970 |
| Amount of Exports in round numbers, | | £ 804,460 |

Employment of ships in the trade computed on the tonnage:—Custom House reports a total of 763 vessels cleared out, and a Register tonnage amounting to 191,199, to this may be added to equal stowage,—tonnage of 50 cubic feet,—a half more, 90,599

| | | |
|---|---|---|
| Thus making a stowage tonnage, | | 286,798 |
| Tons of masts and bowsprits shipped, | 7,275 | |
| Oak, | 24,695 | |
| Pine, | 110,179 | |
| Ash, Elm and Maple, | 10,219 | |
| 1584 M. std. staves, 12 tons to the M. | 19,008 | |
| 2160 M. pipe, pun. and ends, 4 do. | 8,640 | |
| 14211 C. 3 inch deals, 5½ ditto C. | 78,160 | |
| 1435 C. other sorts, 2 ditto C. | 2,870 | |
| Thirteen other kinds of wood as | 2,400 | |
| | | 263,446 |

Leaving only this amount of tonnage for all other des-

in the libel cases. Orders had been transmitted from England last autumn to the administrator, shortly after his arrival, to suspend and report upon the political prosecutions that had been instituted. This was believed to be in consequence of the report of the committee of the house of commons on the civil government of Canada, and as those prosecutions finally were abandoned, it probably was by direction of the home government. Hitherto the grand and petty jurors attending the criminal assises at Quebec and Montreal were taken from the cities, but a new plan was now adopted, and they were at the March term summoned from the body of the district, several travelling upwards of thirty leagues from the country parishes, to attend as grand jurors the courts on this onerous duty. The petty jurors were respectable inhabitants from the country parishes in the neighbourhood of those cities, but who unused to the new duties which they were called upon to perform, in general complained of being taken from their homes for the performance of such, and acquitted themselves but indifferently thereof, as it was but natural they should from their inexperience.



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descriptions of goods, and not quite one-twelfth part of the whole,..... 23,352

This may be taken as satisfactory data of the great importance of the lumber business in the employment of British seamen and shipping, and particularly interesting to the port of Quebec, as the disbursements circulate in so many and various ways; these important considerations appear to have been fairly entertained by the legislative assembly, in so judiciously voting £1000 for making and repairing a road along the beach to communicate with the scene of business at the lumber coves.—*Old Quebec Gazette.*

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It appears, by returns laid before the assembly at the late session, that of the monies appropriated by the legislature, for roads and other local purposes, from 1814 to 1827, £27,191 had been expended on roads in the district of Quebec, £242,500 on roads and canals in that of Montreal—that the whole outlay from the public treasury for various purposes in the former, amounted to £133,541, in the latter to £277,501—in the district of Three Rivers, £34,627—Gaspé, £7,650—St. Francis, £2,900.

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The following may be taken as expressive of the opinions of a considerable portion, if not a majority, of Upper Canada:—

"Whatever may have been expected from this report of the committee of the house of commons, it had no permanent effect in restoring tranquillity to Lower Canada, or in arresting the violent measures of the french canadian leaders. They soon returned to their intemperate abuse of the government, and in the midst of the outcry, lord Dalhousie was removed.

"A temporary calm followed, as is usual, the accession of the new governor; but his administration was wholly unimportant as regarded the settlement of any question that had arisen between the government and the assembly. The only variety produced by the change was, that the outrageous abuse, of which the head of the government had before been the principal object, was for a time distributed among his noble predecessor, the legislative council, and the king's ministers. Things, however, began to revert to their former state, so soon as it became evident that the resolution of Sir James Kempt, to take nothing amiss from the assembly, was not likely to lead the way to any decisive changes, and that his policy had no higher object than to save himself from the disaster of being thought an unpopular governor, and from the annoyance of those brutal attacks which no firm friend of the constitution had the slightest prospect of escaping for any length of time.

"The assembly renounced none of their pretensions, and all that the new governor gained by such concessions as were made, and by the sacrifice of feeling, which it must have cost him to listen with complacency to the most ungenerous calumnies upon his predecessor, mingled with compliments to himself, was the grant of an annual supply, so defective, and accompanied with conditions so objectionable, that his Majesty's ministers expressed their regret that it had been accepted."—*On the state of the Province, by a Select Committee of the Legislative Council, Upper Canada, 13th Feby.*, 1838.

# CHAPTER XXIX.

First representatives of the Eastern Townships elected—parliament meets—speech—Mr. Christie re-expelled on strength of a vote of the previous session—address in answer to speech—message to the assembly relating to representation act—other messages—petition to the king from the assembly—decisions of the judges on militia ordinances—estimates of the year—supply voted—resolutions prefixed—chairmen of quarter sessions retrenched—supply bill nearly lost in the legislative council—double or casting vote of the speaker of the legislative council—bill for qualification of justices of the peace and militia bill passed—prorogation—registry offices established in the eastern townships—liberal appropriations, by the assembly, for divers purposes—Sir James Kempt's irksome position and desire to be relieved from it—decease of his Majesty George the fourth, and general election in consequence—despatches from Sir John Colborne and Sir James Kempt relative to reform in the legislative councils of the Canadas—meeting of certain inhabitants of the five counties, Richelieu, Verchères, St. Hyacinthe, Rouville and Chambly, at St. Charles—resolutions passed—Mr. Debartzch—bill introduced in the imperial parliament for giving up the crown revenues in Canada—postponed—arrival of lord Aylmer—assumption of the government by him, and departure of Sir James Kempt—extracts of letters to Sir George Murray—address to Sir James Kempt and answer, on his departure—character of his administration—variorum.



THE act for the new division of the province into counties being sanctioned in England, and by proclamation of the 5th October, declared

Chap. XXIX. 1830. in force, the eastern townships became entitled, without waiting for the general election, to immediate admission into the representation. Eight members were accordingly returned for the counties of Missisquoui, Sherbrooke, Stanstead, Shefford and Drummond, each of the three first sending two representatives, and the two latter one each. The parliament met on the 22d January, 1830. The administrator opened the session with the following speech:—

"Gentlemen of the legislative council, gentlemen of the house of assembly,—I have called you together at a time, which I believe to be most suited both to your private convenience, and the public service; and it affords me sincere pleasure to have it in my power to congratulate you on the prosperous state of the affairs of the province.

"Under the blessing of Divine Providence, the distress which was so severely felt at this time last year, is no longer experienced, and the scarcity which then prevailed, has, fortunately, excited among the inhabitants of the country a spirit of active industry in their agricultural occupations, which cannot fail to be attended with the happiest effects.

"Commerce has been carried on more extensively than usual, during the past year, and with more activity and enterprize.

"The provincial revenue has also encreased; and arrangements have been made for the security of the public monies in the hands of the receiver general, conformably to the communication made to you in the last session.

"It will be gratifying to you also to learn that elementary schools have been very generally established throughout the province; that great progress has been made in the improvement of the internal communications, and that facilities have been afforded to all classes of his Majesty's subjects, to settle on the waste lands of the crown.

"Measures have also been taken for the erection of new light-houses and for promoting the various objects of public improvement, for which provision was so liberally made in the last session.

" It has been my earnest endeavour to see that the bounty of the provincial parliament was not misapplied, and I have, with that view, established such regulations, as appeared to be necessary, for guarding against abuses, and for ensuring a faithful and judicious expenditure of the public money.

" Details on all those subjects will be laid before you, for your information, and you will probably be of opinion, that the acts passed in the last session " for the encouragement of elementary education," and " for erecting light-houses in the St. Lawrence," require revision.

" Gentlemen of the house of assembly,—The accounts of the provincial revenue and expenditure for the last year will be laid before you, as soon as possible, and every information afforded you respecting them, which you may require.

" Gentlemen of the legislative council, gentlemen of the house of assembly,—It will be my duty to convey to you, by message, a communication which I have received his Majesty's commands to make to you, upon the subject of the financial question, which has given rise to so much controversy in the province; and I will now submit to your consideration such matters of public interest as I conceive will be conducive to the general welfare of the people of this loyal colony.

" The state of the currency is a subject which demands your attention; the adoption of some measure, appearing to be necessary, to prevent the circulation of pistareens and other small silver coins, at a nominal value, greatly exceeding their intrinsic worth. It is also most desirable that legislative provision be made to ensure the circulation of british silver money in the province at its real value. His Majesty's government having sent out a considerable quantity of such money, with a view to its circulation, and to its ultimately becoming the circulating medium of the colony, I recommend the subject to your serious consideration.

" I would also suggest the expediency of passing a law for the qualification of the justices of the peace, adapted to the situation and circumstances of the colony. The qualification being moderate, and either in real property or personal income.

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"The erection of court-houses and gaols in some of the most populous counties of the province, (when desired by the inhabitants) is another measure which I would recommend to your consideration; but I will communicate to you, by message, my ideas on this subject.

"Evils having been experienced by the introduction of contagious diseases into the province, it may be expedient to guard against calamities of this kind, by some suitable enactment.

"The unfitness of the gaol at Montreal, as a place of confinement for so populous a district, has been frequently brought under your consideration; and I trust that the session will not close, without provision being made, either for the erection of a new gaol, or for a penitentiary, where criminals may be kept at hard labour, apart from prisoners who are confined previous to their trial.

"I suggested to you, by his Majesty's command, in the last session, the expediency of levying a small tax upon such tracts of land, as remain in a waste and unimproved condition; and also for establishing offices for the registration of deeds; and to these subjects it is my duty again to call your attention.

"The pressure of business in the last session prevented your maturely considering several matters of public importance that came under your deliberation, but I feel persuaded that they will engage your early attention; and you may rely on my cordial concurrence in all measures which have for their object the general welfare of the province, and the happiness of his Majesty's canadian subjects."

There was nothing remarkable in the address of the assembly in answer to the above. Mr. Christie, who after his expulsion at the last session, had been re-elected by the county of Gaspé, was, on the strength of that measure, tantamount, according to the assembly, to a disqualification, immediately on the opening of the session, by vote of the house,

re-expelled.* In addition to the re-expulsion it was proposed to address his excellency praying he would "be pleased to refuse to the said Robert Christie, esqr., all marks of confidence on the part of his Majesty's government, by dismissing him from any place of honor or profit he may hold during pleasure under his Majesty's government."† This, however, failed in committee of the whole house, (yeas 8, nays 13,) the township representatives present, with one exception, voting



* "Mr. Bourdages moved to resolve, seconded by Mr. Samson, That the said Robert Christie, esquire, having in his quality of stipendiary chairman of the quarter sessions for the district of Quebec, called in question, and counselled the then administration to call in question, the freedom of debate in this house, is therefore undeserving of the confidence of the government, and unworthy to be a member of this house, and ought not to sit, and cannot sit as a member thereof.

† "Mr. Bourdages moved to resolve, seconded by Mr. Samson, that an humble address be presented to his excellency the administrator of the government, representing that Robert Christie, esquire, having while he was chairman of the quarter sessions for the district of Quebec, and one of the members of this house, in violation of its privileges, of the independence of its members, and of the liberty of debate in this house, abused his situation by inducing the earl of Dalhousie, then governor in chief, to dismiss from the office of justice of the peace, several members of this house, on account of their votes and proceedings therein, was for such conduct unanimously declared by this house, on the 14th of February, 1829, and again this day is declared unworthy of the confidence of his Majesty's government and unworthy of serving and sitting in this house, and praying therefore, that his excellency will be pleased to refuse to the said Robert Christie, esquire, all marks of confidence on the part of his Majesty's government, by dismissing him from any place of honor or profit he may hold during pleasure under his Majesty's government."

It is to be observed that Mr. Vallieres, who had, at the last session, taken the initiative in this matter, having during the recess, been shelved, by his appointment to the judgeship at Three Rivers, vacant by the decease of Mr. Bedard, the task of following it up devolved upon Mr. Bourdages, as *doyen* of the assembly. The division was as follows:—Yeas—Messrs. Papineau, Viger, Bourdages, L. Lagueux, Boissonault, Borgia, Samson, Brooks. Nays—Messrs. Ogden, Duval, Deligny, Cuvillier, Larue, Taylor, Freleigh, Heriot, Childs, Peck, Young, Perrault, Cannon.

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against it. The financial message promised in the speech, came down on the 29th of January, as follows :—

" His excellency the administrator of the government has received his Majesty's commands to acquaint the house of assembly, that circumstances which could not be controlled, rendered it impossible for his Majesty's government to bring under the consideration of parliament in their last session, the measures contemplated for the final adjustment of the financial questions which have given rise to so much controversy in the province.

" His excellency is further commanded to inform the house of assembly that, without the authority of parliament, it would not be in his Majesty's power to adopt those measures, from which alone a permanent adjustment of those questions can be anticipated, the appropriation of the revenue arising from the statute 14th Geo. III., chap. 88, being not purely a right which may be maintained or waived at pleasure, but a duty for the performance of which the lords commissioners of his Majesty's treasury must remain responsible, until the act of parliament has been either amended or repealed.

" His excellency is further instructed to lay before the house of assembly an estimate of the expenses of the civil government for the year 1830, framed upon the same principle as that which was presented to the house in the last session, and to include in it a provision for the arrears of salaries and other sums due to various public officers that remain unpaid; and his excellency has been finally commanded to express his Majesty's confident hope that the house of assembly will grant such supplies, in aid of the revenue of the crown, as are required for the support of his Majesty's government, in reliance on his Majesty's gracious assurance that measures will be immediately taken to effect an amicable arrangement under the authority of parliament, of a controversy which has continued too long for the real interests and welfare of the province."

In answer to this, an humble address was voted his excellency, " thanking him for his

message of this day, communicating his Majesty's gracious assurance that measures will be immediately taken to effect an amicable arrangement of the financial question which has given rise to so much controversy in this province, and assuring him that we will take into early consideration his said message, with a view of granting such supplies as may be found necessary, in the confident hope that the inherent rights of his Majesty's subjects in this province to control, by means of their representatives, the expenditure, and direct the application of all monies paid by them for public uses, be firmly and permanently established."

A day or two after this address was voted, his excellency transmitted by message to the assembly, the views of the home government on the bill it recently had sanctioned for the new subdivision of the province into counties,* which, although it had concurred in

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* "Downing Street, 18th August, 1829.

"Sir,—A bill passed by the legislative council and assembly of Lower Canada, intituled, "An act to make a new and more conve-"nient subdivision of the province into counties, for the purpose of "effecting a more equal representation thereof in the assembly than "heretofore," which was reserved by yourself for the signification of his Majesty's pleasure, having been referred by his Majesty in council to the lords of the committee of the privy council for trade and foreign plantations, the lords of that committee have reported to his Majesty in council, their opinion that this act ought to be confirmed, and I have the honor to transmit to you an order of his Majesty in council, approving that report, and confirming the act accordingly.

"His Majesty has received with satisfaction the proof which the legislature of Lower Canada have given by this enactment, of their desire to conciliate the inhabitants of the Townships lying to the south of the St. Lawrence, and of their disposition to redress the complaints which that class of his Majesty's subjects have so long

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it on the score of expedience for the moment, nevertheless did not entirely approve of it, as the reader will perceive on perusal.

A petition to the king, by "the commons of Lower Canada, in provincial parliament assembled," was passed, representing—

"That certain ordinances for the better regulation of the militia of the then province of Quebec, were made and pass-

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made of their practical exclusion from the house of assembly. The ministers of the crown have, therefore, not hesitated to advise his Majesty to confirm this act, although it does not entirely coincide with the views which they themselves entertain on the subject of the representation of the people of Lower Canada.

"Adverting to the past history and the present composition of the provincial assembly, it had appeared to his Majesty's government, that no system offered so fair a prospect of general advantage and content, as that which at present prevails in Upper Canada. To a certain extent, indeed, that principle has been pursued; but the areas of the different counties, established by this act, are so unequal, that if it should remain the permanent of the province, the inhabitants of those counties which lie to the south of the St. Lawrence, can never enjoy a share in the representation proportionate to the extent of population, and the degree of wealth which that portion of Lower Canada may hereafter attain. If, as in Upper Canada, the areas of the different counties had been as nearly equal as would be consistent with observing the great natural land marks of the country, a not improbable ground of future, and, perhaps, not remote, discontent would have been avoided.

"You will communicate this despatch to the legislative council and assembly, apprising them that although his Majesty's government have no wish to invite them to renew the consideration of this most important and difficult question at the present moment, they cannot, on the other hand, doubt that it will be again forced on the attention of the provincial legislature by the natural progress of events. I cannot, therefore, quit this subject, without recording the deliberate conviction of his Majesty's government, that in all legislation respecting the representation of Lower Canada, every invidious distinction derived from religion, language and descent, should be studiously and altogether avoided. The act under consideration has been approved and confirmed by his Majesty as a sincere, though imperfect, recognition of this most important principle.

"I have the honor to be,

"Your most obedient humble servant,

(Signed) "G. MURRAY."

"Lieut.-gen. Sir James Kempt, G. C. B., &c., &c., &c."

"A true copy, C. Yorke, Secretary.

ed by the governor and legislative council of the said province, in the years 1787 and 1789, which ordinances were inadequate, arbitrary and vexatious in their provisions, unnecessarily burthensome to the subject, subversive of personal freedom and the right of property, and subjected all the male inhabitants of the said province, between sixteen and sixty years of age, to an exercise of martial law in time of peace.

"That by an act passed in the second session of the first provincial parliament of Lower Canada, in the 34th year of the reign of your Majesty's royal father of revered memory, "it was declared and enacted that from and after the passing of the said act," the said ordinances "shall be, and they are hereby repealed," and certain temporary provisions were substituted in lieu thereof.

"That the said provisions and other temporary provisions for regulating the militia, were continued or enacted by various other acts of the provincial parliament, and continued from time to time, till the first day of May, in the year 1816, when they expired in consequence of a premature dissolution of the house of assembly, and were revived by another temporary act of the provincial parliament, passed on the twenty-second day of March in the following year.

"That during the interval between the said first day of May in the year 1816 and the said 22d day of March 1817, the aforesaid ordinances nor any other law for regulating the militia were enforced or pretended to be in force, or known to be in existence by the body of the inhabitants of the said province fit for militia duty.

"That all the provisions for regulating the militia of this province revived, continued or enacted by the provincial parliament, at or subsequently to the said 22d day of March, in the year 1817, expired on the first day of May 1827, after a sudden prorogation of the provincial parliament, which was followed by a premature dissolution of the assembly.

"That the aforesaid ordinances of the governor and legislative council, for regulating the militia of the late province of Quebec, were pretended to be revived, and were enforced by the late governor of this province, soon after the said prorogation, whereby he assumed a legislative authority over your Majesty's subjects in this province, and attempted to

Chap. XXIX. establish arbitrary power over their persons and property, under colour of law.

1830. "That in pursuance of the said attempt to establish arbitrary power, the said ordinances were used under the authority of the said governor, needlessly to vex your Majesty's subjects in this province, and to colour the issuing and publishing various pretended general orders of militia, containing false, scandalous and libellous imputations on divers your Majesty's dutiful and loyal subjects, with a view to degrade them in public estimation, for the exercise of their right to assemble peaceably for petitioning your Majesty and parliament, and for the exercise of other undoubted civil rights, and for the purpose of obstructing and deterring others in the exercise of the said rights.

"That in furtherance of the said attempt, the said militia ordinances were used, under the authority of the late governor in chief, as pretexts for exercising an undue and corrupt influence in the elections of members to serve in this house, and to question, under colour of prerogative, the freedom of speech and proceedings in the provincial parliament.

"That in furtherance of the said attempt, various pretended courts martial were assembled under colour of the said ordinances, in the districts of Quebec, Montreal and Three Rivers, before whom divers of your Majesty's subjects were summoned and brought, harrassed with vexatious proceedings and condemned to fines, costs and imprisonment, against which, in the existing circumstances of this province, they are without any sufficient and certain means of obtaining satisfaction and security.

"That this house hath declared that the said attempt and various other proceedings in pursuance and furtherance thereof, are high crimes and misdemeanors against all your Majesty's subjects in this province, and subversive of their constitutional rights and liberties.

"Whereupon your faithful commons pray that your Majesty would be graciously pleased to take this their humble petition into consideration, cause enquiry to be made in the premises, and justice to be done, to the end that your Majesty's subjects in this province may in all time to come, be secured against similar attempts and proceedings.

"And your petitioners, as in duty bound, will ever pray."*

This was in fact an impeachment of lord Dalhousie, by the assembly of Lower Canada, as far as constitutionally they could impeach the late governor of the province. An address was presented to the administrator, the whole house going up with it to the castle of Saint Lewis, stating to his excellency, that "having taken into consideration various matters connected with the militia ordinances of the governor and legislative council of the late province of Quebec, they had determined, by humble petition, to appeal to his Majesty's justice against divers acts contrary to the acknowledged rights and liberties of his Majesty's subjects in this province." "We most humbly"—said they—"confide the said petition to your excellency, praying that it may be transmitted to the foot of the throne of our most gracious sovereign."



His excellency answered, that he would not fail to transmit their petition to the king, to his Majesty's secretary of state for the colonies, for the purpose of being laid at the foot of the throne. "I must, however, observe on the

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• "Mr. Neilson moved, seconded by Mr. Bourdages,

"That the said petition be engrossed.

"The house divided on the question, and the names being called for, they were taken down as followeth:

"Yeas—Messieurs Leslie, Brooks, André Papineau, Letourneau, Blanchet, Child, Laterrière, Scott, Peck, Etienne Claude Lagueux, Caron, Cannon, Viger, Labrie, Malhiot, Deligny, Bureau, Mousseau, Fortin, Neilson, De Rouville, Bourdages, De St. Ours, Duval, Knowlton, Cuvillier, Samson, Quesnel, Larue, Dessaulles, and Clouet,—(31)

"Nays—Messieurs Taylor, Solicitor General, Tremain and Heriot, —(4.)"

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present occasion,"—added his excellency—"that his Majesty's courts of justice in this province, having determined that the ordinances in question are laws in force, my duty necessarily requires me to be governed by such judicial decision until a new act shall be passed by the provincial parliament for the regulation of the militia, a measure which I sincerely hope will be effected in the course of the present session."

This proper and very seasonable answer to an address intended no doubt to influence and overawe him as well as to impeach his noble predecessor, threw the assembly into a state of great excitement, and an humble address was voted praying his excellency "would direct the proper officer to lay before the house any decision of his Majesty's courts of justice in this province, that the militia ordinances passed by the governor and council of the late province of Quebec, are laws in force, and also authentic copies of records of the causes in which such judgments may have been rendered." His excellency complied with their request, and the documents were referred to a committee of five members to examine and report upon them.*

The committee, on the eve of the proroga-

* The committee consisted of Messieurs Neilson, Bourdages, Duval, Viger, and Leslie. Mr. Viger, was understood to be the propounder of the doctrine, legal or illegal, set forth in the petition to the king, and which was diametrically opposed to that of the attorney general, Mr. Stuart, whose legal opinion on the subject has previously been mentioned.

tion, made a rather laboured report reflecting upon those decisions, and upon the judges by which they were given. They observe in conclusion—" as to the decision rendered by his Majesty's court of king's bench for the district of Quebec, deeply as your committee regret that such a decision should have been rendered, in violation of the rights of his Majesty's subjects, yet when it is observed that that decision was rendered by four judges, all of whom are members of the legislative council, and two of whom are members of the executive council, your committee cannot conceive that the same deference ought to be shewn, as if the question had been decided by independent judges, totally unconnected with colonial administration, or the political differences which have heretofore existed in this province.

" Your committee conceive that the judgment pronounced in the court of king's bench at Quebec, when all circumstances are considered, is of so much importance as affecting the security of the person and property of the subject, that it ought to be further investigated at the ensuing session of the provincial parliament."

It does not appear that the home government took any notice of the absurd impeachment of the late governor in chief on this subject, no reply to the petition, in so far as we know, ever having been made.

The estimate for the year was sent down, arranged according to departments, with expla-

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natory observations. The gross expenditure was estimated at £71,246; the crown revenues at £40,000, the aid called for being £31,246. The administrator observed in the message accompanying the estimate, that it "included by his Majesty's command the arrears of salaries and other sums due to various public officers, which the inadequate supply of the last year afforded no means of discharging; and that the excess of the present estimate over that which was submitted to the house of assembly in the last session is to be attributed to this cause." These, in fact, were the salaries which the assembly had refused to vote.

The assembly went into committee on the estimate and voted a supply, prefacing their votes with the resolutions below,* signifying it

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* "Resolved, as the opinion of this committee, that, before entering upon the consideration of the estimate submitted of the expenses of the civil government of the province for the current year, it is expedient to declare that this house proceeds thereon only in the confident hope that an adjustment of the financial question which has given rise to so much controversy in this province, will be speedily effected, in a manner satisfactory to this house, and that the inherent right of the people of this province to control, by means of their representatives, the application and expenditure of all the monies levied in the province for the public uses thereof, will be fully acknowledged and permanently established.

2. "Resolved, That in the opinion of this committee, it is further expedient to declare that this house enters upon the consideration of the said estimate, in the hope that the grievances complained of by the inhabitants of this province, in their humble petitions to his Majesty and both houses of the parliament of the United Kingdom, and reported on by a committee of the house of commons, on the 22d of July, 1828, will be fully redressed, and that his Majesty's government will give their entire effect to the recommendations of the said committee; but particularly that a more independent character and a closer connection with the interests of the colony be given to the legislative council of the province, and that the judges cease to be involved in the political business of the said council, and to hold seats

to be but provisional, and in the hope that an adjustment of the financial question would be speedily effected; and that the grievances complained of to his Majesty and both houses of parliament and reported on by a committee of the house of commons would be fully redressed; and that his Majesty would give their entire effect to the recommendations of the said committee. In particular a reform in the legislative council, by which a more independent character and a closer connection with the interests of the colony would be given to it, was mentioned, as indispensable, and that the judges should cease to be involved in the political business of that council, and to hold seats in the executive council, to the end that his Majesty's faithful subjects in the colony be secured in the inestimable benefits of a consti-

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in the executive council, to the end, that his Majesty's faithful subjects in this colony be secured in the inestimable benefits of a constitutional legislative power, co-operating for its peace, welfare and good government, and an administration of justice enlightened and independent, and in no way exposed to the suspicion of political bias or interested considerations.

3. "Resolved, That it is the opinion of this committee, that it is further expedient to declare that the duties of this house cannot be fully and successfully performed, and the people whom they represent be sufficiently secured against the abuses of power in high public officers, without a competent and independent tribunal within the province, before whom impeachments by this house may be heard and determined according to parliamentary usage, and a real and efficient responsibility and accountability be established in offices of high public trust.

4. "Resolved, That in the opinion of this committee, it is expedient to declare that this house proceeds on the consideration of the said estimate with an intimate conviction of the earnest efforts of his excellency the administrator of the government, to establish an impartial, conciliatory and constitutional system of government in this province, and to remedy, as far as depends upon him, the grievances and abuses of which his Majesty's subjects in this province and this house, have had reason to complain."

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tutional legislative power, co-operating for its peace, welfare and good government, and an administration of justice enlightened and independent, and in no way exposed to the suspicion of political or interested considerations. A competent and independent tribunal within the province for the trial of impeachments by the assembly for the abuses of power in high public officers, was also by vote declared indispensable to the full and successful performance of the duties of the house towards the people whom it represented.

The supply voted, was, according to the bill passed on the occasion, by the assembly, such sum from the unappropriated funds of the province, as together with the appropriated revenue of the year might amount to, but should not exceed £62,250, sterling, being upwards of £7,500 short of the estimate, owing to the retrenchment of various items on the civil list, which, in disregard of the king's recommendation as mentioned in the message accompanying the estimate from the administrator, the assembly passed over. Among the retrenchments were the salaries of the chairmen of the quarter sessions of Quebec, Montreal and Three Rivers, who, as previously mentioned, having incurred the displeasure and become obnoxious to the assembly, were now struck off, and their offices were accordingly discontinued by the executive, not only without any indemnity to the incumbents, but without provision for the arrears actually earned and due

them, which they did not recover sooner than five years after the abolition of their offices. They, indeed, deemed themselves aggrieved, but many to the contrary thought them suitably repaid for their devotion to the executive, whose too faithful servants they had been.

The supply bill being sent up to the legislative council, there very narrowly escaped rejection, being only saved by a manœuvre, the credit of which was given to the chief justice, Sewell, speaker of the council, and by his casting double vote. The occurrence is thus told in the language of a contemporary, for whose accuracy we can vouch:—"On motion", in the legislative council, "to discharge the order of the day for the second reading of the bill, a division took place of 7 to 7. The motion, of course,was not carried, there not being a majority for it. Then, on motion to commit the bill there was an equal division, (7 to 7) the chief justice voting with the *yeas*,* but by his double vote, which in such cases he pretended he had the right to exercise, the motion was carried, and the council went accordingly into committee. On motion, after discussing the bill, that the committee should rise and report it, a division took place of 7 to 7, and there not being a majority in favor of the motion to report, the measure, according to parliamentary usage, was deemed to be lost. But the chief

* The division was as follows :—Yeas—Chief justice Sewell, Messrs. Hale, Ryland, Caldwell, Cuthbert, Taschereau, De Lery,—Nays—Messrs. Richardson, Grant, Pothier, Bell, Gugy, Felton, Bowen.

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justice (whose salary, it is to be observed, for the year, (£1,000) as speaker of the legislative council was included in the bill, in which he was therefore interested, as were also some others in the legislative council,) was not to be so defeated. The lord bishop of Quebec, the hon. and right revd. Ch. J. Stewart, D. D., who had absented himself from the council since the commencement of the session, made, on the day after the circumstance alluded to, his appearance in the house, now for the first time since it had met, and it was manifest, as he subsequently acknowledged, that he had come on the solicitation of and in complacency to the chief justice. Mr. justice Bowen had been chairman of the committee, but refusing to report the bill, it being in his view (and rightly as many thought) of the usages of parliament lost, the chief justice moved that the clerk assistant, who had attended during the sitting of the committee, should forthwith report the bill. A long discussion on the novelty of this step arose; and on motion of Mr. Felton, in amendment, that the report be made on the first of August next, it was, on a division, negatived by a majority of one, (through the bishop's vote,) and the main motion carried.*

* The following is a copy of the Protest entered on the journals of the house, by the non-content members of the legislative council, on the Supply Bill:—

DISSENTIENT.—1. Because the supply bill having been submitted to a committee of the whole house yesterday, the 24th day of the present month of March, and the committee of the whole house having been equally divided in their votes, rose without any order to report the same, the bill thereby was according to the usages of par-

The bill consequently passed the legislative council, but the time-serving conduct of bishop Stewart, a virtuous and truly good man, zea-

liament lost, and could not constitutionally be revived in the same session of the provincial legislature.

2. "Because the assembly for a series of years past have acted upon a system which, if persevered in, is calculated substantially to place in the hands of that house, the whole legislative, judicial and executive powers of the province.

3. "Because, in pursuance of that system, they claim the sole disposal and appropriation of the public revenue; not only of what is unappropriated, but of what is already permanently appropriated by acts of the imperial parliament—although the most alarming and injurious consequences to the province would ensue, if the permanent revenue and appropriations under 14 Geo. III., cap. 88, and other provincial, permanent and appropriated revenues were given up to them.

4. "Because also in pursuance of that system, they annually, separately, and respectively, discuss and vote the salaries of all public officers, thereby endeavouring to establish, that, however faithful they may be in the discharge of their duties, they shall annually be at the mercy of the assembly, in respect to their salaries, if in the execution of those duties any of them may happen to give offence to that body.

5. "Because further, in consonance of that system, they have annually disregarded the aid asked for by the king's representative, by substracting the salaries of the public officers negatived in their votes, and then blending together the permanent appropriations for the support of the government with what they see fit to allow, inserting in the supply bill, the conjoint amount of both, without specifying the sum that is given in aid of what is already appropriated, or designating it as such—thereby making their votes to supersede the permanent appropriations, as if the whole was granted under their authority and no part thereof by the existing laws.

6. "Because, if this system of annually discussing and voting the salaries separately, and altering and negativing the same at their will and pleasure shall prevail, a popular despotism will ensue and a complete revolution in the present constitution and government be effected, whereby all public officers, from apprehension of losing their bread may be necessitated to become subservient to the views of the assembly.

7. "Because the legislative council under that system, must become a mere office for enregistering the decrees of the assembly, to which implicit obedience will be then exacted, as it seems now to be expected.

8. "Because in proof of the assumption of the powers above said—the legislative council is treated in the debates of the other house with marked disrespect, if not insult, and are reproached because they dare to think for themselves, by rejecting or amending improper bills,

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lous, indefatigable, in his vocation as a priest and prelate, became the subject of much severe animadversion in the public papers, and he

and especially for negativing such as are unconstitutional and annually sent up, for concurrence, without alteration.

9. " Because by the late mission to England, whose proceedings were adopted and justified by the assembly, the legislative council were vilified and studiously misrepresented, as a body not sufficiently identified with the interests of the colony, but acting under improper influence, whereas the fact is, that if any influence has been used, it has been in favour of the people, and not in favour of what has been alleged to be acceptable to the government.

10. " Because such treatment of this house aims at the destruction of its rank, influence and utility as a co-ordinate and independent branch of the legislature, wisely interposed between the crown and the people, in order to restrain both within constitutional limits.

11. " Because further, in proof of such assumption of unconstitutional powers the assembly, notwithstanding their offer to pay the whole civil expenses of the provincial government, yet when applied to for that purpose in1818, by the then governor in chief, by desire of his Majesty, they drew back from the plain meaning of the pledge given by such offer, and have since deducted salaries which existed before the commencement of the present constitution, and others which existed at the time of such offer and were actually granted by them in 1818, but in subsequent years deducted, without allowing any indemnity to the holders of such salaries, as common justice, and the practice in the mother country, and other parts of his Majesty's dominions, require should be done when offices of long standing are abolished.

12. " Because a practical illustration of the effects of this system, has been afforded in the present session, by the rejection of the salaries of the chairmen of the several quarter sessions, although those offices were established and paid many years before 1818, and, by reason of the augmented population of the cities and towns, those offices are indispensible to the administration of criminal justice in subordinate offences —which rejection, must alarm every public officer for his situation, when held by the precarious tenure of popular favour.

13. " Because in this session also, there has been a direct assumption of judicial authority by the assembly declaring and persisting to declare, that the militia ordinances are not in force, although they had been adjudged to be in force by the courts of king's bench and not appealed from: by such declaration assuming to themselves the right to revise and decide upon the decisions of the constituted tribunals.

14. " Because the present bill substantially contains the vices of the former unconstitutional supply bills, with addition thereto of that which respects the chairmen of the several quarter sessions, and must, if passed into a law, add to the existing difficulties instead of removing

never after resumed his seat in the legislative council, in consequence, it is believed, of the odium he had drawn upon himself by his vote on the occasion."

The administrator prorogued the session on the 26th of March, in a brief speech, sanctioning at the same time fifty-four bills, among them one for "the qualification of justices of the peace," requiring a property qualification in persons appointed to the commission of the peace, and actual residence in the district wherefor appointed. A militia bill also was passed, putting at rest the difficulty that had arisen between the executive and the assembly relative to the old ordinances of 1787 and 1789. It in like manner required a property qualification in persons commissioned to the militia, and residence within their respective divisions. A new formation of the magistracy and militia took place in pursuance of those acts. The speech on closing the session was as follows:—

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—In closing the present session of

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them—and because it has been preceded by resolutions of the assembly, which threaten the king's government with the refusal of all further supplies if their will, regarding the same, be not implicitly followed; and in direct violation of the repeated resolutions of this house as recorded in its journals on this subject."

(Signed) "JOHN RICHARDSON,
"C. W. GRANT,
"L. GUGY,
"Ed. BOWEN,
"F. C. POTHIER,
"M. BELL."

"For the reasons contained in the 1st, 2d, 4th, 5th and 6th sections of the above protest.

(Signed) "W. B. FELTON."

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the provincial parliament, I feel it due to you to express my best acknowledgments for the great diligence manifested by you in the discharge of your legislative duties.

"Gentlemen of the house of assembly,—I thank you in his Majesty's name, for the supplies which you have granted in aid of the monies already appropriated by law, for defraying the expenses of the civil government, and for the administration of justice:—But it becomes my duty, at the same time to express my regret, that the grant is not to the full amount required for the public service, and for the payment of certain arrears of salaries and other charges, included by his Majesty's express commands, in the estimate which was submitted to you.

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—A new formation of the militia and of the magistracy, under the laws to which I have just given his Majesty's assent, are subjects which will engage my earnest and immediate attention.

"The liberality of the appropriations for the advancement of education, for the security of navigation, for the improvement of the great internal communications of the province, and for other objects tending to increase the productive industry of the people, have afforded to me the highest satisfaction, and you may rely on my applying, to the best of my judgment, the monies which you have been pleased to place at my disposal, to the various purposes which they are intended to promote."

An act was passed for the establishment of registry offices in each of the counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missisqoui, for the enregistration of all acts or deeds in law and instruments in writing, by which immoveable property should be transferred, disposed of, or incumbered in any way. This was, in addition to the admission of the eastern townships into the representation, another important point conceded to their

wishes, and which they, owed to the report of the Canada Committee.

Several very liberal appropriations were also made by the assembly at the late session. In particular, provision was made by "An act to provide for the improvement and enlargement of the harbour of Montreal," pursuant to which the magnificent stone quay which now so essentially contributes to the commercial convenience and adornment of that splendid port was constructed, "according to a plan," as the act particularly states, "made by capt. Piper, of the royal engineers, which plan shall be deposited in the office of the provincial secretary." Three thousand pounds were voted for the encouragement of steam navigation between the ports of Quebec and other ports in the St. Lawrence and Halifax.. Six thousand pounds were also voted for the purchase or erection of a custom house in Quebec. Twenty thousand for the erection of a common gaol at Montreal. Two thousand more were voted towards the erection of a light-house on the Island of St. Paul, at the entrance of the gulf of St. Lawrence, the amount to be at the disposal of the governor "to enable him conjointly with the governments of the provinces of Nova Scotia, New Brunswick and Prince Edward Island, to cause the intended light-house to be erected on the said Island of St. Paul." Eleven thousand five hundred pounds were appropriated for the erection of a Marine Hospital in or near the city of Quebec. Thirty-

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eight thousand pounds were appropriated for the purpose of improving the internal communications of the province, by means whereof several very important new roads were made through hitherto unsettled tracts of country, essentially facilitating the ingress of imigrants and their settlement in those secluded parts. Nearly eight thousand pounds were voted towards the encouragement of elementary education and the instruction of youth, including £200 to the late Joseph Lancaster, then in Canada, "towards enabling him," it was said, "to make experiments in the method of instruction invented by him," but in reality a gratuity to the worthy itinerant quaker. Besides the usual aids to the hospitals of the religious ladies and other charitable institutions, liberal grants to literary institutions, including "the literary and historical society of Quebec," and "the natural history society of Montreal," were made. Four hundred pounds were voted Mr. Pierre Chasseur, to encourage and "grant him further assistance in forming and keeping open for inspection of the public his museum of natural history in the city of Quebec,"* three hundred and fifty pounds having been voted him the previous session, to enable him to enlarge the "useful collection of various subjects of natural history, productions of the Canadas," which he had, as the

* This valuable museum, which Mr. Chasseur, a respectable artisan of Quebec, had, at great pains, establishad at his own private expense, was unhappily afterwards entirely destroyed by the conflagration of the building (near Palace Gate) which it occupied.

act passed on the subject states,—"formed, preserved and kept open for the inspection of the public." It may, indeed, be here remarked, once for all, that the assembly of Lower Canada were invariably liberal patrons of literature, science, the diffusion of knowledge and the arts. No man of the least pretensions to any of these, ever, it is believed, appealed to it in vain. On the contrary, in the desire to encourage merit in these branches its liberality was sometimes ill-bestowed and absolutely thrown away upon worthless adventurers and empyrics speculating upon its munificence. Chap. XXIX. 1830.

Sir James Kempt must, before the close of the session, have sensibly felt the berth to which, against his desire, it was said, he had been promoted, getting by far too warm for him, and being a man of unostentatious, retiring and quiet habits, and withal sensitive and exceedingly excitable, have been anxious to escape from it. He accordingly, as reported, pressingly insisted upon his recal and to be relieved of the government, which, although as far as in him lay he had endeavoured to make acceptable, he nevertheless plainly perceived, from the ultra expectations of the party he courted, was already a failure. There was, it is true, the appearance of harmony, the best of accord and reciprocal confidence between the administrator and assembly, but it was on both sides rather that of courtesy, not to call it hypocrisy, than of cordiality. Distrust lay at the bottom, neither of them, as there is reason

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to believe, having faith in the professions or sincerity of the other, not that there was any want of candour or frankness in the administrator, for both were characteristic of him, but that he had to perform a part assigned him in a drama he must have disliked, feeling that neither success nor gratitude would attend his labours.

The death of his Majesty George the fourth, on the 26th June, was not officially announced at Quebec, until the 30th of August, when it was accompanied by the usual solemnities, the Executive Council assembling at the castle of St. Lewis to take the necessary oaths of allegiance to his successor king William the fourth, orders being at the same time given to proclaim, on the *Place d'armes* and in other quarters of the city, with the customary formalities, his Majesty's accession, followed by salutes from the citadel and the grand battery. The demise of the crown having put an end to the provincial parliament, writs were issued for a general election, tested 13th September, and returnable 26th October.

In a despatch from Sir John Colborne, lieut. governor of Upper Canada, to Sir George Murray, colonial minister, dated "York, 16th February, 1829," and laid before parliament, the following observations are made by that officer, with respect to the two councils, executive and legislative, in that province:—

"With respect to the constitution of the executive and legislative councils, on which subject you require information, it is evident that whatever persons may be appointed

members of the executive council, there will be a considerable degree of jealousy existing in this limited community of their influence and authority. They must necessarily reside at York, and will seldom be able to accept the charge without holding other offices under the crown. On many accounts it is very desirable that the chief justice should retain his seat in the executive council; but there can be no doubt that occasionally he must, as a judge, be led too deeply into the political affairs of the colony.

"Composed as the legislative council is at present, the province has a right to complain of the great influence of the executive government in it. The legislative council consists of seventeen members, exclusive of the bishop of Quebec. Of these, from accidental causes, not more than fifteen ever attend to their legislative duties. Thus out of the number generally present, six are of the executive council, and four hold offices under the government. I have, therefore, intimated my intention of recommending to his Majesty's government to increase the legislative council.

"It is exceedingly difficult to find persons qualified for it; but if about eight or ten more can be selected from different parts of the province and the majority be considered independent, there can be good reasons assigned for excluding the executive council.

Sir James Kempt also writes from the castle of St. Lewis, Quebec, 3d January, 1830, as follows:—"The great diversity of opinion which prevails in this province, on almost every subject of political interest, and the difficulty which I have experienced since my assumption of the government, in obtaining correct information upon several important topics to which you called my attention in your despatch of the 29th September, 1828, have prevented my replying at an earlier period, to that part of it in which you require me to afford you information respecting the legislative and executive councils. You are pleased in that despatch to desire me to report to you whether it would be expedient to make any alteration in the general constitution of these bodies, and especially how far it would be desirable to introduce a larger portion of members not holding offices at the pleasure of the crown, and if it should be considered desira-

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ble, how far it may be practicable to find a sufficient number of persons of respectability of this description.

"The paper No. 1, which I have the honor herewith to transmit you, will afford you, I trust, all the information which you desire in respect to the present composition of the legislative and executive councils.

"The former consists, as you will observe, of twenty-three members, and of these twelve hold offices under the crown; seven are large landed proprietors unconnected with the government; three are merchants, also unconnected with the government; and one member has been absent from the province for several years. Sixteen of the members are protestants, and seven are roman catholics. Eight are natives of the province, and fifteen are natives of the United Kingdom, or born in other countries.

"The executive council consists at present of nine members, of whom only one is entirely unconnected with the government. Two are natives of the Canadas, and all are protestants except one roman catholic member.

"After giving the subject my best consideration, I confess I am not at present prepared to point out any material alteration in the general constitution of either of the councils which it will be expedient to make; but I am humbly of opinion that it will be very desirable to introduce by degrees, a large proportion of members not holding offices at the pleasure of the crown into the legislative council; and that the judges (with the exception of the chief justice of the province,) should not be in future appointed to seats in either of those bodies. I am further disposed to think that it will be expedient to appoint one or two of the most distinguished members of the house of assembly to the executive council, with the view of giving the popular branch of the legislature confidence in the local government, an object, it appears to me, of the greatest importance to the peace, prosperity and happiness of the colony.

"The three gentlemen that I have recently had the honor of recommending to his Majesty for seats in the legislative council, are landed proprietors in the province and persons of the greatest respectability; and although it would cer-

tainly be exceedingly difficult to select any great* number of persons of the same description, yet a sufficient number I hope may be found to fill the vacancies that may occur in either of the councils."

So wrote, from the Canadas, the two governors, with respect to the legislative councils of those provinces. The letter of Sir James Kempt produced some sensation, and a large public meeting was held on the 7th October, a few days before his departure, at St. Charles, on the river Chambly, at which a considerable number of the most respectable inhabitants of the counties of Richelieu, Vercheres, St. Hyacinthe, Rouville and Chambly attended. At this meeting the hon. P. Debartzch, a member of the legislative council, and who had been the chief author of its convocation, presided. Resolutions were adopted stating, in the first place, their gratitude to the house of commons in directing the publication of the correspondence of ministers with the different governors of colonies, inasmuch as from it the greatest advantages to the province must result; in the second, that the friends of the country had seen with sentiments of gratitude, Sir James Kempt, when he assumed the reigns of government in 1828, pursue a wise and well regulated line of policy, founded on the true interests of the colony and the mother country, which had almost immediately the happy effect of

* This word "great," having, by mistake, been misprinted "greater" in the canadian journals, the circumstance produced considerable irritation until declared an error and explained away in the public prints, by some friend of Sir James Kempt.

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causing to disappear the jealousies and divisions which the arbitrary conduct that characterised the extravagant administration of his predecessor had excited to the highest degree; and thirdly, expressing their "fears and apprehensions of the most serious kind in consequence of the despatch of his excellency Sir James Kempt to secretary Sir George Murray, wherein his excellency recommends with regard to the necessity recognised and avowed on all hands at present, of reforming the legislative and executive councils of this province, an order of things which is in opposition to the interests and wishes of almost all his Majesty's faithful subjects in this province, expressed in their petition of grievances presented to the imperial parliament in 1828.

"They conscientiously believed that such an order of things, if adopted in conformity to this recommendation, will terminate in results baneful to the stability of social order, such as is established in this province; that it will destroy all hope entertained by the people of their seeing a perfect sympathy prevail between the members of the different branches of the legislature, which alone can effect in a durable manner, the happiness and prosperity of all classes of the inhabitants of this province"—and, finally, it was "resolved that a copy of those resolutions be sent to Sir James Kempt."

The above were intended, of course, as a parting declaration that they (and they no doubt expressed the general opinion now pre-

vailing,) no longer had any confidence in him and that he was welcome to depart; finding, on experience, that he had not proved so radical a reformer as they promised themselves he would be. This was the first meeting, it is believed, of notables of "the five counties" mentioned that took place. Several others subsequently were held at St. Charles, previous to the rebellion that broke out in 1837, of which it was the focus, the insurgents having established their head quarters therein, whence the commands emanated by which the outbreaks in other quarters were to be directed. Mr. Debartzch was a gentleman of extensive property and influence, well informed in the laws and constitution of the country, of agreeable temper and manners, and on the whole an amiable and estimable man; but having in the legislature generally sided with the party in opposition to the executive, he had in common with many of his associates conceived perhaps rather *ultra* notions of reform, to which the home government was not prepared to yield as speedily as they desired, he joined in the agitation which was now again about to be renewed, (and through which, on the outbreak, like most of those who lead on the masses "*ad novas res*," he became a sufferer,) flattering too much the popular feeling and disposition towards reforms impracticable and inconsistent with the views of government. On the arrival, however, of lord Gosford, in 1835, and the other commissioners, Sir Charles Grey and Sir George

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Gipps, who accompanied him, Mr. Debartzch convinced of the earnestness with which the british government had entered upon the work of conciliation and reform, and actuated by a corresponding desire to co-operate with them in the good work, endeavoured to prevail upon his friends and co-partizans to participate with him in it. But in vain; the tide of public opinion or rather of public prejudice had taken the direction which unfortunately he had helped to give it, and which neither promises nor reasonable concession could now turn from its course, and in attempting which he but incurred the displeasure and disgrace of his former political associates.

The home government sincerely desirous of removing all just causes of complaint in the colony, on the score of the revenues of the crown therein applicable to the support of its civil government and for the administration of justice, had introduced at the late session of the imperial parliament a bill by which it was proposed, after specially setting apart £20,000 annually, of those revenues for defraying the expenses of certain offices in the Canadas, to surrender the remainder to the respective legislatures of the two provinces. These revenues exceeded at this time £40,000 sterling, annually, and were on the increase. The bill, however, was not passed during that session but allowed to lie over to the following, when one of a much more liberal character was substituted for it, the provisions of which and the

effects whereof we shall have occasion to observe in their turn.



The arrival of lord Aylmer, in H. M. Ship Herald, at Quebec, on the 13th October, relieved Sir James Kempt of a government whereof, it is believed, he was heartily tired. The phrase in vogue on his departure—"*he has escaped just in time,*" was significant of the public opinion, and most probably of his own, of what was coming, as the fruit of an administration justly characterised as one of "expedience and expedients." He sailed for England on the 20th October, lord Aylmer issuing on the same day his proclamation, notifying his assumption of the government as administrator, his commission as governor in chief, it seems, not having been prepared at the time of his leaving England, and which he did not receive until February. Sir James Kempt, but a short time before his departure, renewed the commissions of the peace, reforming the magistracy throughout the province, and restoring the magistrates dismissed by his predecessor. He also commenced the reorganization of the militia, reinstating several if not all the agitators deposed for the reasons previously shewn, leaving the consummation of the work of conciliation and reform to his successor. Time and events have not justified the wisdom of this course, although for the moment it soothed the asperities of those whom lord Dalhousie had termed "a party hostile to the government."

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In a letter addressed to Sir George Murray, in one of the canadian prints, about this time, remonstrating against the intended surrender of the crown revenues to the assembly, without some pledge from it that it would make a permanent provision for a civil list, so as not to leave the judges and other public functionaries dependent upon an annual vote, we find the following observations:—

"With such men as compose our lower house, what have we to expect but that the same course of selfish policy which has latély been manifested in the acts relating to the magistracy and the militia will be pursued, and that laws will be enacted which are repugnant to british feelings and interests? nor ought this to occasion surprise, since our late administrator has lent his aid to nourish and mature their ambitious projects, for by his mandate alone, to the sheriff of Quebec, and without any legislative provision, the jurors (who for above half a century had been summoned from the city and suburbs) were ordered to be taken from a circuit of ten leagues from the walls, and what was the consequence? On two late occasions at the criminal side of the king's bench, and at the quarter sessions in a pannel of 72 jurors, only two were found who spoke the english language, and in another of 48, there were only two of english descent." The same writer in remarking upon the increase of the representation, observes—"We now approach a new era in Lower Canada;—the meeting of a house of assembly which, under your auspices and those of Sir James Kempt, has been increased from 50 to 84. And why was the royal sanction given with so much precipitation to an object of such deep general interest? That the townships must be represented which are said to contain 45,000 inhabitants? But at what a sacrifice? The abolition of the english names of almost all the counties, a wider diffusion of french influence, and a perpetuation of french ascendency over the province!"

In an address presented Sir James Kempt, in the name of the citizens of Quebec, on his departure, they "acknowledged with sincere gratitude the many and important benefits which the province had derived from his administration of the government."—"Internal peace," said they, is one of the greatest blessings that can be enjoyed by a free people. It has been restored to us under your excellency's administration, and its influence has been felt in the amelioration and extension of agriculture, in the progress of trade, and public improvements, and in the undivided attention of the people to the pursuits of industry."

"Useful laws have been passed; several abuses have ceased, or are in the course of removal. The whole population has been facilitated in the means of making their wants and wishes known and respected, through their representatives, and education freed from exclusive pretensions has been promoted and encouraged.

"In the laws sanctioned by your excellency, and in your recommendations to the legislature, we have evidence of a liberal and enlightened policy, suited to a free and loyal people. In your excellency's unremitting and laborious attention to your public duties, and in the manner in which they have been discharged, we have an additional instance of the practicability and advantage of that impartial, conciliatory and constitutional government which we are assured it is his Majesty's desire that his subjects in the colonies should invariably enjoy."

"A service"—he observed in reply—"of nearly eleven years in the administration of colonial government in his Majesty's North American possessions, and a professional life passed almost entirely on foreign stations have made me desirous for some time past of seeking repose, and of being permitted to return to England; but I have the satisfaction

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of leaving the province in a state of perfect tranquillity and rapid improvement, and under a firm persuasion that the difficulties which exist in the government are in the course of being speedily removed."

The fallacy of his expectations, however, if really he entertained such, will appear in the sequel.

There was a momentary calm, it is true, but nothing was settled, nor in train of settlement; in fact, he left matters more unsettled than he found them, a sad legacy to his successor, upon whom the whole odium of contending against the accumulated mischief resulting from the hollow and time-serving policy of his administration devolved. His government was popular, however, with the entire mass of the french canadian population, but not so with the british, who universally felt that the calm was delusive and the forerunner of times more stormy than ever. Some of the former who during his stay had been loudest in his praises, nevertheless acknowledged, after his departure, that he had come "*the old soldier*" over them, as well as the party he seemed most to consult; meaning, probably, that he had disappointed them in not going the lengths he may, at the outset of his administration, have led them to believe he would, in their projected reforms.

The total number of emigrants arrived at Quebec in 1830, from the United Kingdom, amounted to 28,075, viz:—from Ireland 17,596, England 6,895, Scotland 2,600, Wales 204—Irish and Scotch from Nova Scotia and New-

foundland 280, and reported at Montreal 500. The immigration during the previous year (1829) was 15,945, and in 1828 about 12,000. It was stated in the official Quebec Gazette, towards the close of the year 1830, that according to the best calculation that could be made, about one-twelfth part of the emigrants landed at Quebec in 1830, remained in Lower Canada. It also was computed that in the year 1828, fully one-half of all the emigrants who arrived in Quebec proceeded to some part of the United States. The proportion in 1829 was considerably smaller, while in 1800, it was ascertained that not more than 6,530 passed through the Canadas and finally settled in the United States.

By the public accounts of 1830, the whole revenue of the province for the year was stated at.....£201,422

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| Outstanding bonds,.... | £25,375 | |
| Salaries,drawbacks,&c. | 12,505 | |
| | | 37,880 |
| Actual payments into the chest,... | | £163,542 |
| Proportion to Upper Canada,..... | £37,400 | |
| Further expenses of collection due,..... | 3,048 | |
| | | 40,448 |
| Net available income of the province, including the amount of outstanding bonds above,.. | | 149,468 |
| Increase over last year,..... | | 22,634 |

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The light-house on *Pointe des Monts* was finished this summer, and in use from October to the close of the navigation of the St. Lawrence, to the convenience and safety whereof it has materially contributed.

The arrivals of vessels at Quebec, during 1830, from Great Britain and other parts beyond the sea amounted to 967, including 71 entered at the ports of Gaspé and Bay Chaleurs, measuring 238,153 tons and employing 10,933 men. The clearances outwards were 1054, making 256,468 tons, employing 11,719 men. The imports of merchandise from the United Kingdom paying 2½ per cent. duty, exceeded £1,130,000. From the ports of Gaspé and Bay Chaleurs, 55,250 quintals of dried codfish were shipped for foreign ports, besides the usual quantities to the canadian markets, from which some idea of the value of those fisheries may be formed.

# CHAPTER XXX.

Legislature meets—members—speech—address in answer—Mr. Christie re-expelled—Bill to incapacitate judges from sitting in the legislative council—proceedings against the attorney general Stuart—indemnity to members of the assembly voted—complaints by notaries, &c., relative to new commissions—civil list and estimate—address—answer—call of the house—sundry addresses and answers—report of a special committee on the civil list—state of the province considered—address on the subject to the king—transmitted through the governor—his remarks on the occasion—proposal in the assembly to make the legislative council elective—reports by committee of grievances against the attorney general—petition to the king praying for his removal—address to the governor for his suspension—suspended and proceeds to England—supply for the year voted—Canada tenures act a grievance—report of committee against Mr. justice Fletcher, and address to the governor—proceedings relating to Mr. justice Kerr—quorum of the assembly reduced—various money matters during the session—prorogation—*Le Canadien* revived—steamer Royal William runs between Quebec and Halifax—Chambly canal commenced—Rideau canal in operation—project of an union of the Canadas revived—varieties.



LORD AYLMER immediately upon his assumption of the government made an order, as Sir James Kempt had done on his advent to it, requiring all commissioners and others accountable for any public monies with the expenditure whereof they had been entrusted, to ren-

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der their accounts duly supported by vouchers and specifying the balances in hand to the executive. This seems to have been disregarded, as a subsequent notice came out stating that the above requisition not having been complied with, no further issue would be made until such time as accounts were rendered. The proper officer was desired to prepare and lay before his excellency a return of all persons whose accounts should be outstanding on the 15th December, 1830, but nothing further was heard of the matter, which seems not to have been followed up by any legal steps.

His excellency assumed the government just as the elections had terminated, by which, under the new act, the assembly was hereafter to consist of eighty-four members. He convoked the legislature for the 24th January, but owing to a temporary indisposition of his excellency the session was not opened until the 27th, both houses going up to the castle of St. Lewis for the purpose. Mr. Papineau being again chosen speaker of the assembly was, in the usual style, confirmed as such by the governor.* His excellency addressed the two

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* The names of the members returned for this the 14th Parliament of Lower Canada, were as follows:—

County of Bellechasse, Nicolas Boissonnault and Augt. N. Morin; County of Beauce, Antoine C. Taschereau and Pierre E. Taschereau; County of Dorchester, Louis Lagueux and Henry John Caldwell; County of Kamouraska, Chas. Eus. Casgrain and Amable Dionne; County of Lotbinière, Louis Methot and J. B. Isaïe Noël; County of L'Islet, Jean Charles Letourneau and Jean Bte. Fortin; County of Montmorenci, Philippe Panet; County of Orleans, Frs. Quirouet and Jean Bte. Cazeau; County of Portneuf, Frs. Xavier

houses on the occasion, with the following speech:— Chap. XXX. 1831.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—The convening of a new provincial parliament which has been rendered necessary by the death

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Larue and Hector S. Huot; County of Rimouski, François Corneau and Paschal Dumais; County of Saguenay, M. P. De Sales Laterrière and Isidore Bedard; County of Quebec, Jn. Neilson and Michel Clouet; Upper Town of Quebec, A. Stuart and Jn. Francis Duval; Lower Town of Quebec, Thomas Lee and T. A. Young; Borough of Three Rivers, Charles R. Ogden and P. B. Dumoulin; County of Champlain, Pierre Antoine Dorion and Olivier Trudel; County of Drummond, Frederick George Heriot; County of Nicolet, Louis Bourdages and Jean Bte. Proulx; County of St. Maurice, Pierre Bureau and Valère Guillet; County of Sherbrooke, Chas. Fdk. Henry Goodhue and Samuel Brooks; County of Yamaska, Charles De Montenac and Joseph Badeau; County of Acadie, Robert Hoyle and François Languedoc; County of Beauharnois, Charles Archambeault and Jacob De Witt; County of Berthier, Jacques Deligny and Alexis Mousseau; County of Chambly, F. A. Quesnel and L. M. Viger; County of Laprairie, Austin Cuvillier and Jean Moyse Raymond; County of Lachenaie, Charles Courteau and Jean Marie Rochon; County of L'Assomption, Barthelemy Jolliette and Amable Eno dit Deschamps; County of Missiskoui, Ralph Taylor and Stevens Baker; County of Montreal, Jos. Valois and Jos. Perrault; East Ward of Montreal, Hughes Heney and J. Leslie; West Ward of Montreal, L. J. Papineau and John Fisher; County of Ottawa, Philemon Wright; County of Richelieu, R. de St. Ours and Jacq. Dorion; County of Rouville, Remi Séraphim Bourdages and Jean Bt. Réné H. de Rouville,; County of Stanstead, James Baxter and Ebenezer Peck; County of Shefford, Paul H. Knowlton; County of St. Hyacinthe, Jean Dessaulles and Louis Raynaud Blanchard; County of the Two Mountains, Jacques Labrie and William Henry Scott; County of Terrebonne, Joseph Ovide Turgeon and Louis Hypolite Lafontaine; County of Verchères, Pierre Amiot and X. Malhiot; County of Vaudrueuil, Godefroy Beaudet and Alexis Demers; Borough of William Henry, Jonathan Wurtele; County of Gaspé, Robert Christie; County of Bonaventure, Edouard Thibodeau and John Gosset.

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MEMBERS OF THE HONORABLE THE LEGISLATIVE COUNCIL.

The Honorable Jonathan Sewell, chief justice of Lower Canada, Speaker.

Hon. and rt. rev. C. J. Stewart, lord bishop of Quebec.

The Honorable

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| * Sir G. Pownall, kt | Roderick Mackenzie, |
| Sir John Johnston, bart. | L. R. C. de Léry, |

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of his late Majesty, and my own recent appointment to this government, are circumstances which would have made it desirable to call you together at an earlier period; but I have been induced to defer doing so until the corresponding season of last year's meeting, under the impression that I was thereby more effectually consulting your personal convenience.

"The loss which his Majesty, and the royal family, and the whole of his Majesty's subjects, have sustained by the demise of his late Majesty, will, I doubt not, have been the cause of grief to his Majesty's canadian subjects.

"My inexperience with regard to the local concerns of this province does not, as yet, permit of my directing your attention to any particular object connected with its internal improvement; but, I can assure you that I am now and have been ever since my arrival amongst you, diligently employed in acquiring such information on those points, as may, I trust, enable me hereafter to offer some useful suggestions for your consideration.

"There is, however, one subject to which I wish briefly to advert: I mean the currency; and I do so merely for the purpose of informing you that I am in possession of some further information on the subject, which shall be placed at your disposal in the event of your taking up the consideration of it again.

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| Charles de St. Ours, | Lewis Gugy, |
| John Hale, | James Kerr, |
| John Richardson, | Edw. Bowen, |
| John Caldwell, | W. B. Felton, |
| H. W. Ryland, | Matthew Bell, |
| James Cuthbert, | John Forsyth, |
| Charles Wm. Grant, | John Stewart, |
| Pre. Dom. Debartzch, | Toussaint Pothier, |
| *M. Henry Perceval, | J. T. Taschereau. |
| Thomas Coffin. | |

The following gentlemen were shortly after this called to the legislative council, upon the recommendation, it was believed, of Sir James Kempt:—

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| P. Saveuse de Beaujeu, | Samuel Hatt, |
| Denis Benjamin Viger, | Louis Guy, and |
| | George Moffat. |

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* Absent from the Province.

"I had entertained a hope that I should have been enabled to lay before you some communication from his Majesty's government upon the question of finance, which has occupied much of the attention of the legislature of this province; but not having it yet in my power to do so, I think it necessary to apprize you that I have reason to know that the unavoidable pressure of public business incidental to the death of his late Majesty, and the change of administration which has recently taken place in England, have interrupted the progress of measures contemplated by his Majesty's government on that subject. These measures I have every reason to believe, will soon be brought to maturity. In the mean while it may be satisfactory to you to learn, that his Majesty's government is deeply impressed with the necessity of an immediate and satisfactory adjustment of the question to which I have alluded, and I am sanguine enough to hope that the instructions which I am led to expect, will be calculated to prevent the chance of future collision on this subject.

"Under these circumstances, you will, I trust, see the necessity of making some provisional arrangement for meeting the expenditure of the government, upon the assurance that his Majesty entertains an earnest desire to see the financial concerns of the province placed, without loss of time, upon a footing which may be at once compatible with the exigencies of the public service, and with the wishes and feelings of his Majesty's faithful subjects of Lower Canada. His Majesty has no desire to call upon them for any supplies beyond such as may upon full consideration be found essential, his Majesty having no object more at heart than the

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THE KING'S HONORABLE EXECUTIVE COUNCIL.

The Hon. chief justice Sewell.

The hon. and rt. rev. C. J. Stewart, lord bishop of Quebec.

The Honorable

John Richardson,
James Keri,
*M. H. Perceval,
William Smith,
John Hale.

C E. Chaussegros de Léry,
John Stewart,
A. W. Cochran,
James Stuart,

* Absent.

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comfort, the prosperity, and the happiness of a people who are endeared to him by many ties, and whose growing importance in all the relations of the British empire, his Majesty duly appreciates.

"Gentlemen of the assembly,—The accounts of the past year are in a forward state of preparation, and I have every reason to believe that they will be ready to be laid before you, previous to the expiration of the period fixed by legislative regulation for the production of the public accounts.

"An estimate of the expenses for the ensuing year is also in preparation, and will shortly be ready to be submitted to you.

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—The accession of his Majesty king William the fourth, and his consort queen Adelaide, an event which has filled with joy the heart of every british subject, affords an opportunity of expressing those sentiments of loyalty and attachment to the reigning royal family, by which his Majesty's faithful and loyal canadian subjects have ever been distinguished.

"Were I to consult my own inclination on the present occasion, I should avoid saying any thing regarding myself personally; but, appearing before you as I now do, for the first time, I think it necessary to detain you a few moments longer, while I express the deep sense I entertain of the importance of the arduous duties which the king has been graciously pleased to confide to me; and although personally a stranger to this part of his Majesty's dominions, I am nevertheless fully aware of the nature and extent of the difficulties by which those duties are surrounded: how to surmount the difficulties to which I now allude, shall be the object of my constant study, and conscious of my own deficiencies, I will endeavour to supply my want of ability for the task, by a strict and steady adherence to those principles of justice and impartiality which I am quite sure will never mislead me.

"It may be that my efforts are not destined to be crowned with success: I will, at least, endeavour to deserve it.

"In conclusion, it is worthy of observation that your present meeting is marked by peculiar circumstances. You are now, for the first time, called together under the authority of

his present Majesty king William the fourth; and the popular branch of the legislature which has been considerably extended by a late legislative enactment, assembles now, for the first time, with its augmented numbers. These circumstances, gentlemen, constitute the commencement of a new era in your parliamentary history; an era which I do most earnestly hope may be distinguished by that harmony and good understanding between the several branches of the legislature, which is so essentially necessary to give full effect to the advantages of the constitution you have the happiness to possess, and for the preservation of which, as by law established, it is, I am well convinced, equally the interest of every canadian subject of his Majesty to pray fervently to Almighty God."



His excellency gained no credit by this his first speech, generally deemed frothy for an address from the throne, and made, it was thought, but a very undignified *debut*. Lord Aylmer, in fact, misunderstood his position and those with whom he had to deal, giving, it would seem, from his palpable flattery to "the natives," scarcely credit to them for common sense and discernment. He affected to address them like children, but who, children as he deemed them, marked with characteristic shrewdness the game he had undertaken and his incapacity to carry it through. The reader will find, as we proceed, still greater efforts at the viceregal cajollery of which the above was but the first essay, and observe with interest the gradual change of tone from that of suppleness to acerbity, to which events gave rise, placing lord Aylmer, at the close of his administration, strangely in contrast with himself at the outset, driven to it, it must be admitted, however, by the force of circumstances.

Chap. XXX. 1831. The address of the assembly in answer to the speech contained nothing remarkable.—"We sincerely lament,"—said they—"the nature and extent of the difficulties with which your excellency is surrounded in the discharge of the important and arduous duties confided to you by his Majesty, and we gratefully acknowledge the expression of your excellency's earnest desire to surmount them. In your excellency's declaration that a steady adherence to the principles of justice and impartiality will be the rule of your conduct, we find the best grounds to hope that your excellency's efforts will be crowned with success.

"We most respectfully assure your excellency that in endeavouring faithfully to discharge the duties with which we have been entrusted by our constituents, it will be our earnest desire that harmony may prevail between the several branches of the legislature, that full effect may be given to the constitution as established by law, and that it may be transmitted unimpaired to our posterity."

It was, however, not very long after this, that in direct contravention to the determination here expressed of transmitting the constitution "unimpaired to our posterity," efforts were made, and by this same assembly, essentially to alter it by the introduction of the elective principle into the formation of the legislative council.

The governor, in thanking the assembly for their address said—"It is entirely satisfactory

to me, and creates in my mind the most agreeable anticipations of increasing harmony between the executive government of the province and the assembly." 1831.

Mr. Christie having been again returned at the late general election, as representative for Gaspé, took his seat in the assembly, but was immediatety re-expelled by the assembly before proceeding to any other business, the house grounding its vote solely upon the two previous expulsions of the preceding parliament, making, in fact, the sole vote of the assembly, and this of a former parliament, a legal disqualification. The measure was unprecedented and generally deemed unconstitutional; but the assembly had the power, and, as it was said in debate, would make precedents of its own. Mr. Christie was, however, again re-elected by the freeholders of Gaspé, who, deeming themselves wronged, were determined not to part with their rights and franchises without a struggle, but the return not reaching Quebec until after the termination of the session, nothing further on the subject took place until the next meeting of parliament.*

* The proceedings as recorded on the journals of the assembly are as follows :—

" Friday, 28th January, 1831.

" Mr. Thibaudeau moved, seconded by Mr. Louis Bourdages, that the entries in the journals of this house of the 14th February, 1829, and the 22d of January, 1830, relating to the expulsion of Robert Christie, esquire, from this house, be now read.

" Ordered, That the consideration of the said motion be postponed till Monday next."

" Monday, 31st January, 1831.

" The order of the day being read, for taking into consideration a motion made by Mr. Thibaudeau, on Friday last, to wit :—" That

The first bill passed by the assembly was one "to incapacitate the judges from sitting

the entries in the journals of this house of the 14th of February, 1829, and the 22d of January, 1830, relating to the expulsion of Robert Christie, esquire, from this house, be now read."

"The house proceeded accordingly to take the said motion into consideration.

"Mr. Bourdages moved, seconded by Mr. Lafontaine, that the said motion be now referred to a committee of the whole house.

"The house divided on the question:—Yeas 46, nays 20.

"So it was carried in the affirmative, and

"The house accordingly resolved itself into the said committee.

"Mr. Boissonnault took the chair of the committee; and after some time spent therein,

"Mr. Speaker resumed the chair;

"And Mr. Boissonnault reported that the committee had come to a resolution; which resolution was again read at the clerk's table, as followeth:

"Resolved, That it is the opinion of this committee, that the entries in the journals of this house of the 14th February, 1829, and of the 22d January, 1830, relating to the expulsion of Robert Christie, esquire, from this house, be now read.

"Mr. Lagueux moved to resolve, seconded by Mr. Boissonnault, that this house doth concur with the committee in the said resolution.

"The house divided on the question:—Yeas 42, nays 22.

"So it was carried in the affirmative.

"And the said entries were read accordingly.

"Mr. Thibaudeau moved, seconded by Mr. Louis Bourdages, that Robert Christie, esquire, returned to serve in this assembly as a knight representative for the county of Gaspé, is the same Robert Christie mentioned in the said entries, and expelled this house, for having as stipendiary chairman of the quarter sessions for the district of Quebec, called in question, and counselled the then administration to call in question, the freedom of debate in this house, and of whom it was declared that he was undeserving of the confidence of the government, and unworthy to be a member of this house, and ought not and could not sit as a member thereof.

"The house divided on the question:—Yeas 43, nays 22.

"So it was carried in the affirmative, and

"Resolved, accordingly.

"Mr. Thibaudeau moved to resolve, seconded by Mr. Louis Bourdages, That by reason thereof, the said Robert Christie, esquire, cannot sit or vote in this house as a member thereof.

"The house divided on the question, and the names being called for, they were taken down as followeth:—

"Yeas—Messieurs Archambeault, Beaudet, Blanchard, Boissonneault, Louis Bourdages, Rémi Seraphim Bourdages, Brooks, Bureau, Cazeau, Corneau, Courteau, Demers, Deschamps, Dessaulles, De Witt, Pierre Antoine Dorion, Dumoulin, Fortin, Guillet, Heney, Joliette, Knowlton, Lafontaine, Lagueux, Malhiot, Methot, Morin,

or voting in the legislative or executive councils, and to secure their independence." This

Mousseau, Neilson, Noël, Panet, Proulx, Quesnel, Rochon, Scott, Thibaudeau, Trudel, Turgeon, Valois, Viger and Wurtele.—(41.)

"Nays—Messieurs Baker, Baxter, Bedard, Caldwell, Casgrain, Clouet, Cuvillier, Déligny, De Montenac, De St. Ours, Dionne, Duval, Fisher, Goodhue, Heriot, Hoyle, Huot, Larue, Laterrière, Lee, Leslie, Létourneau, Peck, Stuart, Ant. Charles Taschereau, Taylor, Wright and Young.—(28.)

"So it was carried in the affirmative, and

"Resolved, accordingly.

"Mr. Thibaudeau moved, seconded by Mr. Ls. Bourdages, that the Speaker of this house do issue his warrant to the clerk of the crown in chancery for a new writ for the election of a member to serve in the present parliament, for the county of Gaspé, in the place and stead of the said Robert Christie, esquire, expelled this house.

"The house divided on the question:—Yeas 41, nays 28.

"So it was carried in the affirmative, and

"Ordered, accordingly."

The general opinion of these proceedings is perhaps as correctly expressed in the following article from a New Brunswick paper, which, coming from a neighbouring province, cannot be suspected of local influence, prepossession, or prejudice in the matter, as any that can be found:—

"THIRD EXPULSION OF MR. CHRISTIE!—We have devoted a large proportion of our columns to-day, to the discussion in the provincial parliament of Lower Canada, on the question whether Robert Christie, esquire, returned for the third time for Gaspé, should be allowed to take his seat, after having been twice expelled by the former house for alleged delinquencies as a justice of the peace. As might have been expected, great excitement was produced, and an animated debate took place, in which the claims of Mr. C. and his constituents were maintained with great strength of argument, by some of the most talented and influential members of the legislature, but the result was a majority of 41 to 28 for his *re-expulsion*. If not *anomalous*, it is certainly a most *singular* case And whatever private or local sentiments may be urged in *mitigation* at least, if not *justification* of so unusual a proceedure, we, and we are persuaded, all others, who contemplate the subject dispassionately and at a distance, cannot refrain from denouncing it a species of downright persecution as respects the individual more immediately affected, and of barefaced aggression on the rights of a large portion of his Majesty's loyal subjects. For whilst a regard to consistency might have imposed it as a duty on the former house to follow up the measure by a re-infliction of the punishment, the *new house* was completely exonerated on every principle of honor and of equity. And surely the crimes and misdemeanors of the accused must have been far more heinous than they have ever yet been represented to be, if the offence

Chap. XXX. 1831. was rejected by the legislative council. On motion of Mr. Neilson, a standing committee of privileges and elections was appointed; another of grievances—a third of courts of justice—a fourth of public accounts—a fifth of education and schools—a sixth of agriculture—a seventh of trade—an eighth of roads and public improvements—a ninth of expiring laws—a tenth of private bills—and finally, an eleventh of engrossed bills. The quorum of the house was also, on motion of the same, increased to 42, carried only by the casting vote of the speaker, after an equal division of 31 to 31.

So organised the assembly went to work, determined on business and particularly on reform. On motion of Mr. Bedard the entries in the journals of last session, containing the petition of certain inhabitants of Montreal, complaining of the conduct of the attorney general (Mr. Stuart) and the report of the special committee thereon were read and referred to the standing committee of grievances. The expediency of indemnifying the members of the assembly was again taken up and carried, on a division, by a majority of 37 against 24.* In

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and the punishment can be made to appear as at all proportioned to each other. We express these sentiments, without the smallest bias on either side, and without the slightest knowledge of either party, beyond what is afforded us by the face of the journals both of the present and of the former house."—*St. John's N B., Weekly Observer.*

* The resolutions were as follows:—

"Resolved—That it is expedient that an allowance be made to the members of the house of assembly for the expenses incurred by them for attending the sittings of the house.

"Resolved—That the said allowance be ten shillings for each and every day's attendance, and four shillings for each league of the dis-

justification of this determination the examples of the other North American provinces, as well as of the United States and France were cited. The vote, though strongly opposed in the assembly was generally approved of throughout the province, as in some sort extending the elective franchise, being of a tendency to enable the more distant counties to choose from among their own residents, persons to represent them in the assembly, who otherwise perhaps could not conveniently afford the expense, in addition to their loss of time, in attending the sessions of the legislature. The opponents of the measure alleged



tance between the usual place of residence of the members and the place of the sitting of the house.

" Resolved—That the said allowance be advanced annually, after the opening of each Session, by warrant to the clerk of this house, and be paid by him on an order of the house, upon a list to be submitted by him at the close of each session,

" Resolved—That the said allowance take effect for the present and the next ensuing parliaments."

" Mr. Neilson moved, seconded by Mr. Ls. Bourdages, for leave to bring in a bill to make an allowance to the members of the assembly, for expenses occasioned by their attendance at the sessions of the legislature,

" The house divided on the question ; and the names being called for, they were taken down as followeth :

" Yeas—Messieurs Archambeault, Baker, Baxter, Beaudet, Bedard, Blanchard, Louis Bourdages, Brooks, Bureau, Courteau, Déligny, Deschamps, Dessaulles, Pierre Antoine Dorion, Fortin, Goodhue, Guillet, Hoyle, Knowlton, Larue, Lee, Létourneau, Mousseau, Neilson, Noël, Peck, Quesnel, Taylor, Thibaudeau, Trudel, Turgeon, Valois, Viger and Wright.—(34.)

" Nays—Messieurs Caldwell, Clouet, Cuvillier, Demers, De Montenac, De Rouville, De St. Ours, De Witt, Dumoulin, Duval, Fisher, Heney, Huot, Jolliette, Lagueux, Laterrière, Leslie, Morin, Panet, Scott, Solicitor General, Antoine Charles Taschereau, Wurtele and Young.—(24.)

" So it was carried in the affirmative, and

" He accordingly presented the said bill, and the same was read the first time."

Chap. XXX. 1831.

that it would have the effect of sending to the assembly the scum and dregs of the country, and of filling it with agitators and demagogues of the lowest order. A bill in conformity with the resolutions was passed and sent up to the legislative council, by which it was cast aside. An amount necessary to cover the object in view was, however, subsequently provided for in the bill of supply passed this session, by the assembly, which meeting with the concurrence of the legislative council, the members of the assembly were now, for the first time since the establishment of the constitution, indemnified for attending to their legislative duties.

The late demise of the crown had occasioned much discussion in the public prints, as to the necessity of a renewal of commissions by persons holding such of the crown, including advocates and attornies, notaries, land surveyors, physicians and surgeons, who although by law required to obtain a commission signed by the governor, before being allowed to practice their several professions, were not in the pay of the government nor in anywise dependent upon it. The persons practising those professions, for the most part, though some few yielded, notaries in particular, not to compromise the rights of such as employed them or to leave a doubt with respect to any deed or *acte* executed by them, maintained the independence of their positions as non-stipendiary, and declined taking out the new commissions, on each of which a considerable fee was to be

paid. Complaints on the subject by a notary, Mr. Glackemeyer, of Quebec, of whom the fee on a new commission had been exacted, being laid before the assembly, the governor was requested by an humble address to lay before it copies of any opinions in his possession on the subject of the renewal of commissions held under his Majesty's government in the province during pleasure, which he might deem proper to communicate, and of any other proceedings had in relation to the renewal of such commissions.



To this he made answer, that "about the middle of December last, it was suggested to him (not officially nor by any person connected with the colony,) that it behoved him to consider whether a renewal of the commissions held during pleasure under the government of his late Majesty might not, in consequence of his demise become necessary, by the non-arrival of renewed commissions from England, previous to the expiration of six months, dating from his Majesty's demise. That in consequence of this suggestion he directed the executive council to assemble, when it was resolved, to refer the question to the judges and the law-officers of the crown for their opinion. That with the exception of two of the judges, who stated that they did not consider themselves justified in pronouncing any opinion on the subject, the judges and law-officers of the crown were unanimous as to the necessity of issuing the new

Chap. xxx. 1834. commissions, and that in accordance with their opinions he had directed the issue of them.

"In regard"—said he—"to the copies of any opinion in possession of the government on the subject of the renewal of commissions held under his Majesty's government in the province during pleasure, the governor-in-chief has to observe that the only documents answering to the above description in his possession, are the opinions of the judges and law-officers of the crown above alluded to, and to the production of such documents he entertains strong objections, unless required for some object of great public interest." He however, concluded by adding that "if the house of assembly should nevertheless think proper to apply for them, they should be sent down." The house persisted in calling for those opinions, which he accordingly laid before it. He also transmitted with them copy of a letter addressed by his order to the attorney-general by the civil secretary, directing him to prepare the necessary drafts of such commissions as ceased to be of legal effect after the expiration of six months from the demise of his late Majesty George the fourth; stating at the same time that he was not aware of any further proceedings with respect to the renewal of commissions, more than the actual issue thereof in pursuance of the directions to the attorney general as mentioned.

The governor having received his instructions relative to the civil list, and financial

matters, transmitted an estimate of the expenses of the civil government for the year, the amount being £57,154 sterling, which he stated would be found considerably less than the estimate of last year. Against this there was the probable amount of the appropriated revenue of the year, estimated at £44,000, leaving the supply required at only £13,154. To the estimate was appended a schedule of items that had been included in the last year's estimate, but which being rejected by the assembly, were now, his excellency said, omitted in conformity with the instructions he had received from his Majesty's government.*

* The following is his excellency's message accompanying the estimate:—

"The governor-in-chief transmits to the house of assembly, an estimate of the expenses of the civil government for the ensuing year, and he takes this opportunity of drawing their early attention to the total amount of this estimate, which will be found to be very considerably less than the estimate of last year.

"To the estimate now transmitted, will be found annexed, a statement of certain items, which were included in last year's estimate, and which are now omitted in conformity with the instructions received by the governor in chief from his Majesty's government.

"The items of charge above alluded to, are numbered from number one to number fifteen, and his excellency thinks it proper to remark upon each of these numbers, as follows:—

"Numbers one and two.—It is proposed to abolish these two situations, (lieut. governor of Gaspé and provincial agent in London,) as being no longer necessary for the conduct of the public service; but it is hoped that the ready abolition of these two offices by his Majesty's government will be deemed to establish a just claim on the legislature for the payment of the arrears for the two last years, and for some compensation for the loss which the parties now holding these offices will be subjected to by the abolition of them.

"The governor in chief forbears to suggest the amount of remuneration to which the parties may be considered entitled, being desirous of leaving it entirely to the liberality of the legislature.

"Numbers three and four of the list, refer to the auditor's department, and it appears to his Majesty's government, that it may be left with perfect propriety, as well with regard to the nature and duties of

Shortly after the transmission of the estimate for the year, a message relating to "the finan-

the office as to the payment of all salaries of the officers belonging to it, to the discretion of the legislature, which must necessarily feel a deep interest in the proper discharge of the duties of such a department, and the proper remuneration of those upon whom such important duties devolve.

"The governor in chief will therefore only remark, that it has been found by experience in Great Britain, in regard to a corresponding department, that great advantage has been derived by regulating the audit office by the provisions of a specific act of parliament, by one of the provisions of which the salaries of the principal officers are made permanent and not liable to annual votes.

"Numbers five and six.—It has been deemed unnecessary to propose an estimate for the portions of the salaries and allowances referred to under these heads.

"Number seven.—Salary of the advocate-general for the years 1829 and 1830. Although the governor in chief has excluded this charge from the estimate of the present year, in conformity with the instructions which he has received from his Majesty's government, he is nevertheless desirous of guarding himself against the inference which may be drawn from that circumstance, that he considers the charge unreasonable, or the office itself unnecessary. He is not yet sufficiently well acquainted with the various duties of the law officers of the crown in this province, to be enabled to form a decided opinion on this latter point; and he will only add that he has already had occasion to call upon the advocate general for his official services in a case affecting the rights of his Majesty's subjects.

"Number eight.—It is deemed necessary to include this item in the estimate of the present year.

"Numbers nine, ten and eleven.—The office of chairman of the quarter sessions for the districts of Quebec, Montreal and Three Rivers, having terminated when the new commissions of the peace were issued by the late administrator of the government, and the commissions for that office not having been renewed by the governor in chief, the salaries attached to these offices have been omitted in the present estimate. It will be for the consideration of the legislature hereafter, whether the gentlemen who enjoyed those offices should not be allowed their salaries up to the periods when they ceased to act.

"Numbers thirteen, fourteen and fifteen.—The pensions of Mrs. Livingston, the two Misses De Salaberry and Mrs. Deschambault, have been omitted in conformity with the instructions which the governor in chief has received from his Majesty's government, and he therefore considers it to be his duty to abstain from making any remark of his own on the subject of these pensions.

"The governor in chief having thus remarked upon the several items above referred to, which have been omitted in the estimate of the present year, has only to add that the legislature cannot fail to see in the course pointed out to his excellency, regarding these items,

cial difficulties" and "civil list" was sent down. By this it was liberally proposed to give up to the province a revenue appertaining to the crown, stated as amounting to about £38,000, sterling, for a civil list amounting to £19,500 a year to be granted during the king's

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the sincere desire by which his Majesty's government is animated to meet the feelings and wishes of the province, wherever it appears to be practicable, without impairing the efficiency of the public service and the due administration of the government, and his excellency relies on the liberality of the house to grant the supply now required in aid of the revenue of the crown for the public service."

"Castle of St. Lewis, 14th Feby., 1831."

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"List of Items of Expenditure objected to by the house of assembly of Lower Canada, in the Supply Bill for the year 1830:—

| | | | |
|---|---|---|---|
| 1.—Salary of the lieutenant governor of Gaspé for the year 1829..... | £300 | | |
| Ditto for 1830,..... | 300 | | |
| | —£600 | 0 | 0 |
| 2.—Salary of the provincial agent in London, for 1829 and 1830,..... | 400 | 0 | 0 |
| 3.—Salary of the auditor general of accounts. for 1829 and 1830,..... | 800 | 0 | 0 |
| 4.—Salary of a clerk for ditto,..... | 200 | 0 | 0 |
| 5.—Part of the salaries of the provincial judges for the districts of Gaspé and St. Francis, for 1829 and 1830,..... | 400 | 0 | 0 |
| 6.—Part of the circuit allowances to the judges for 1829 and 1830,..... | 1141 | 13 | 4 |
| 7.—Salary of the advocate general, for 1829 and 1830,..... | 400 | 0 | 0 |
| 8.—Salary of the clerk of the courts in the district of St. Francis, for 1829 and 1830,.. | 100 | 0 | 0 |
| 9.—Salary of the chairman of the quarter sessions at Quebec, for 1830,..... | 500 | 0 | 0 |
| 10.—Salary of the chairman of the quarter sessions at Montreal, for 1830,..... | 250 | 0 | 0 |
| 11.—Salary of the chairman of the quarter sessions at Three Rivers, for 1830,..... | 250 | 0 | 0 |
| 12.—Salary of the chairman of the quarter sessions at Gaspé, for 1829 and 1830,..... | 450 | 0 | 0 |
| 13.—Pension to Mrs. Livingston for 1829 and 1830,..... | 100 | 0 | 0 |
| 14.—Pensions to two Misses De Salaberry, for 1829 and 1830,..... | 200 | 0 | 0 |
| 15.—Pension to Mrs. Deschambault, for 1829 and 1830,..... | 140 | 0 | 0 |

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life. To prevent all misconception as to what revenues were to be given up, a supplementary message came down two days after the above, explanatory of those which the crown intended to reserve, viz: the casual and territorial revenues.* These, it appeared by returns

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"* The governor in chief has received from the secretary of state for the colonial department, his Majesty's commands to make the following communication to the house of assembly, with a view to the final adjustment of the question of finance, which has so long engaged the attention of the legislature of this province.

"His Majesty, taking into consideration the best mode of contributing to the prosperity and contentment of his faithful subjects of the province of Lower Canada, places at the disposal of the legislature, all his Majesty's interest in those taxes which are now levied in the province, by virtue of different acts of the british parliament, and which are appropriated by the treasury under his Majesty's commands, together with all fines and forfeitures levied under the authority of such acts. His Majesty relying on the liberality and justice of the legislature of Lower Canada, invites them to consider the propriety of making some settled provision for such portion of the expenses of the civil government of the province as may, upon examination, appear to require an arrangement of a more permanent nature, than those supplies which it belongs to the legislature to determine by annual votes.

"His Majesty has directed to be prepared and laid before the house of assembly, an estimate of the sums required for that purpose, and in directing the preparation of that estimate, his Majesty has been guided by a wish, never absent from his heart, to call upon his faithful subjects for no other supply than such as may appear to be required for the due execution of those services which it is proposed to charge upon the civil list.

"His Majesty concedes the disposal of those revenues with cordial good will, and cannot doubt that it will be met with in a reciprocal feeling by the representatives of a loyal and attached people.

"The revenues to be given up, taken upon the average of the last two years, amount to £38,125 currency, and the amount of the civil list, according to the estimate herewith transmitted, amounts to £19,500. It is not, however, necessary to call upon the legislature to grant the whole sum of £19,500, inasmuch as by the provincial act of the 35th Geo. III., the sum of £5,000 is permanently granted towards the maintenance of the civil government, the moderate sum of £14,500 is, therefore, all that is deemed necessary to ask for the completion of the proposed arrangement

"It is proposed that the duration of the civil list should be for the life of his Majesty.

called for and laid before the assembly, amounted at an average upon the receipts for the last thirteen years, to upwards of £7000 a year.

Another address was at the same time voted, praying his excellency would be pleased to lay "before the house copy of any despatch or despatches, or of such instruc-

"It is hoped that the arrangements thus detailed will be received in the spirit in which they are dictated, a spirit of conciliation and confidence.

"His Majesty is prepared to surrender a large and increasing revenue; he asks in return for a fixed moderate civil list, much less in amount than the revenue given up; and the settlement of this long agitated question, will be deemed by his Majesty one of the happiest events of his reign, the glory of which, the people of Canada may be assured, will be the promotion of the happiness and content of all classes of his subjects in every quarter of the globe.

"The governor in chief having thus obeyed the commands he has received, in making the foregoing communication to the house of assembly, desires to add that if in the course of their proceedings on this important question, they should deem it expedient to require explanations from him on the subject of it, he will at all times be ready to afford such explanations; and he will, moreover, most willingly supply any further information they may desire to have, to the utmost extent compatible with his duty to his sovereign."

"Castle of St. Lewis, 23d Feby., 1831."

"LOWER CANADA.—PROPOSED CIVIL LIST.

| | | | |
|---|---|---|---|
| Class No. 1.—Governor's salary, | | £4500 | |
| | Civil secretary, | 500 | |
| | Contingencies, | 300 | |
| | | | £5,300 |
| Class No. 2.—Chief justice, | | 1500 | |
| | Ditto Montreal | 1200 | |
| | 6 Puisné judges, £900 each, | 5400 | |
| | Resident judge at Three Rivers, | 900 | |
| | 2 Provincial judges, | 1000 | |
| | Judge of Vice-admiralty, | 200 | |
| | Attorney-general, | 300 | |
| | Solicitor-general, | 200 | |
| | Allowance to judges for Circuits, | 275 | |
| | Contingencies, | 475 | |
| | | | 11,450 |
| Class No. 3.—Pensions, | | 1000 | |
| | Miscellaneous, | 1750 | |
| | | | 2,750 |
| Total 3 Classes, | | Sterling, | £19,500 |

tion or instructions as his excellency may have received from his Majesty's government in

"Statement of the average net produce of the revenues, under the following heads, founded on the receipts of the last two years, after deducting the proportion for Upper Canada:—

| | |
|---|---|
| Customs under Imperial act, 14th Geo. III., c. 88, | £31,742 |
| Licences under ditto, | 2,200 |
| Ditto under Provincial act 41st Geo. III., | 62 |
| Customs under ditto, | 3,735 |
| Fines and Forfeitures, | 386 |
| Total currency | £38,125 |

JOSEPH CARY,
Insp. Gen. Public Provincial Accounts."

"The governor in chief having, in his message of the 23d instant, communicated to the house of assembly the commands of his Majesty, received through the secretary of state for the colonial department, regarding the question of finance which has for so long a period engaged their attention, thinks it necessary to enumerate in detail the several branches of revenue which it is deemed expedient to exempt from the operation of the proposed arrangement.

"This further communication appears to his excellency to be the more desirable as it will remove all grounds for future discussion when the adjustment of this main question shall have taken place, and as it will enable the house of assembly to enter upon the consideration of this important topic with a full and precise understanding of the views of his Majesty's government; these views are now exhibited by the governor in chief to the house of assembly in that spirit of frankness and good faith which characterizes the instructions he has received, and which cannot fail to improve the confidence of the house of assembly, in the good intentions of his Majesty's government.

"The revenue to which the governor in chief alludes are the casual and territorial revenues of the crown, and are classed under the following heads, viz:—

1.—Rents, Jesuits Estates.
2.—Rent of the King's Posts.
3.—Forges of St. Maurice.
4.—Rent of King's Wharf.
5.—Droit de Quint.
6.—Lods et Ventes.
7.—Land Fund.
8.—Timber Fund.

"If the funds derived from these sources operated in any degree as a tax upon the people, or tended either in their nature, or in the mode of their collection, to impede or impair the prosperity of the province, his Majesty's government would have hesitated in proposing to retain them at the disposal of the crown. They stand, however, upon a perfectly different ground from taxes, properly so called. They are

England, concerning the financial affairs of the province, to which his excellency refers in his message on that subject of the 23d instant and this day."



To this he observed to the messengers who had waited upon him with the address, that he could not hesitate a moment regarding the answer which it became him to make to this address—"The despatches and instructions" —said his excellency—"which I have received from his Majesty's government, and which are alluded to in my messages of the 23d and 25th instant, to the house of assembly, are intended for my own information and guidance as governor of the colony; and are addressed to me in the confident expectation, on the part of his Majesty's government, that the commands of the king which those despatches and instructions convey, will be executed by me with that fidelity which should belong to the character of a public officer entrusted with the performance of high and important duties, and honored with the confidence of his sovereign. I have therefore to desire, gentlemen, that you will be so good as to convey to the house of assembly the expression of my sincere regret

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enjoyed by the crown, by virtue of the royal prerogative, and are neither more nor less than the proceeds of landed property, which legally and constitutionally belongs to the sovereign on the throne; and as long as they are applied, not to undue purposes of mere patronage, but to objects which are closely connected with the public interests of the province, it is not easy to conceive upon what grounds of abstract propriety, or of constitutional jealousy, the application of them according to his Majesty's commands, under responsible advice, can be impugned."

"Castle of St. Lewis, 26th Feby., 1831."

1837. March. not having it in my power, consistently with the sense of duty and propriety entertained by me in this occasion, to cause to be laid before them copies of any despatch or despatches, or of such instruction or instructions as I may have received from his Majesty's government in England, concerning the financial affairs of this province, which are referred to in my messages to the assembly on that subject, of the 9th and 28th instant."

This produced a "sensation," and a call of the house was immediately ordered for the 8th of March. It was also resolved that the house would, on the same day, resolve itself into committee of the whole to take into consideration the state of the province. The estimate for the year had been referred to a select committee, with instructions to examine and report upon it; it would also, the messages relating to the late financial affairs and the governor's answer, were in like manner referred, the results of which, as part of the labours of the grievance committee, will presently be noticed.

On the 28th February, a string of addresses was voted to his excellency—

1.—For giving effect to the Chambly canal from the village of Dorchester, commonly called St. Ann's, to the town of Chambly, under the act of 3d Geo. IV. ch. 41. and all the estimates of the probable expense of making the said canal.

2.—For a full statement of the intended application of the sum contained in the esti-

mate of the proposed civil list for Lower Canada, transmitted with the message of the 23d instant

3.—For a statement of the gross annual amount of the rents of the jesuits' estates, classed under the several heads of receipt—a detail of the salaries annually paid, and the gross annual amount of other expenses of management and collection, together with a statement of the annual amount of all other payments made out of the said fund.

4.—For statements of the gross annual income of the land fund and of the timber fund, classed under the several heads of receipt—a detail of the salaries annually paid and the gross annual amount of all other expenses of management and collection, together with a statement of the annual amount of all other payments made out of the same funds, from the year 1818 inclusive.

5.—For a detailed statement of the intended future application of the income arising from the rents of the jesuits' estates, the land fund, the lumber fund and the other heads of revenue classed in the message of the 25th inst., as belonging to the casual and territorial revenue.

6.—For information whether the judge of the court of vice-admiralty at Quebec, had made choice of his salary at the rate of £200 sterling, per annum, as voted by the house, or of the fees which, under the present tariff, he is in the habit of receiving.

The messengers named to present these ad-

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at not having it in my power, consistently with the sense of duty and propriety entertained by me on this occasion, to cause to be laid before them copies of any despatch or despatches, or of such instruction or instructions as I may have received from his Majesty's government in England, concerning the financial affairs of this province, which are referred to in my messages to the assembly on that subject, of the 23d and 25th instant."

This produced a "sensation," and a call of the house was immediately ordered for the 8th of March. It was also resolved that the house would, on the same day, resolve itself into committee of the whole to take into consideration the state of the province. The estimate for the year had been referred to a select committee, with directions to examine and report upon it, to which also the messages relating to the financial affairs and the governor's answer, were in like manner now referred, the results of which, as part of the labours of the grievance committee, will presently be noticed.

On the 28th February, a string of addresses was voted to his excellency—

1.—For papers relating to the Chambly canal, from the village of Dorchester, commonly called St. John's, to the Basin of Chambly, under the act of 3d Geo. IV., ch. 41, and all the estimates of the probable expense of making the said canal.

2.—For a detailed statement of the intended application of the *items* contained in the esti-

mate of the proposed civil list for Lower Canada, transmitted with the message of the 23d instant

3.—For a statement of the gross annual amount of the rents of the jesuits' estates, classed under the several heads of receipt—a detail of the salaries annually paid, and the gross annual amount of other expenses of management and collection, together with a statement of the annual amount of all other payments made out of the said fund.

4.—For statements of the gross annual income of the land fund and of the timber fund, classed under the several heads of receipt—a detail of the salaries annually paid and the gross annual amount of all other expenses of management and collection, together with a statement of the annual amount of all other payments made out of the same funds, from the year 1818 inclusive.

5.—For a detailed statement of the intended future application of the income arising from the rents of the jesuits' estates, the land fund, the lumber fund and the other heads of revenue classed in the message of the 25th inst., as belonging to the casual and territorial revenue.

6.—For information whether the judge of the court of vice-admiralty at Quebec, had made choice of his salary at the rate of £200 sterling, per annum, as voted by the house, or of the fees which, under the present tariff, he is in the habit of receiving.

The messengers named to present these ad-

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dresses, after waiting upon his excellency for the purpose, reported the following answers—to the

1st.—The proper officer will be directed to lay the plans, &c., before the house.

No. 2.—I have it not in my power to furnish a detailed statement of the application of the items contained in the estimate of the proposed civil list for Lower Canada, (transmitted with my message of the 23d ulto., under the heads of contingencies in classes Nos. 1 and 2, not being in possession of the necessary information to enable me to do so. The same observation will apply to the item of miscellaneous in class No. 3. Regarding the item of pensions in class No. 3, I have to inform the house that a communication must be made to his Majesty's government, before a final appropriation of that head of charge can take place.

No. 3.—Upon reference to the proper officer, I have ascertained that the information sought for in this address has hitherto been withheld, in conformity, I must presume, with instructions from his Majesty's government. With this impression upon my mind, and in the absence of any precise instructions on the subject addressed to myself, I cannot feel justified in furnishing the desired information.

No. 4.—To this address I can only return a similar answer to that which I have just made to the preceding one, and to that answer I must accordingly refer.

No. 5.—I cannot take upon myself to say what may be the future intentions of his Majesty's government with regard to the appropriation of those branches of the revenue which are considered as the property of the crown, and consequently liable to such changes in the distribution of them, as his Majesty may be pleased to direct. I can only state generally, that it is the intention of his Majesty's government to apply them to objects which are closely connected with the public interests of the province, and I have reason to believe that the following items will be made chargeable upon the revenues:—1st. The advancement of education.—2d. The payment of the clergy of the established church.—3d. Of one thousand pounds per annum to the roman catholic bishop of Quebec.—4th. An allowance annually of six hundred pounds to presbyterian ministers.

No. 6.—I really cannot inform the house of assembly whether the judge of the court of vice-admiralty has or has not made choice of his salary at the rate of £200 per annum, as voted by the house, or his fees. I only know that the judge of the vice-admiralty having some time since made application to me for a warrant for the amount of his salary for the year 1830, I caused inquiry to be made whether he had received fees during that period, and upon learning that he either had done so, or at least still asserted his claims to those fees, I withheld my warrant for the amount of

Chap. xxx. 1831. the salary, which will be found carried to the credit of the public in the amounts of the expenditure of the past year, now before the house of assembly.

The five last answers were immediately referred to the committee on the estimate.

These answers were scarcely before the house, when another address was voted to his excellency, praying him to lay before the house any information which might be in his possession and that he should think proper to communicate respecting any bill introduced during the last or present session of the parliament of the United Kingdom, by any officer of his Majesty's government, concerning the financial affairs of the province, or any information relating to any such bill proposed to be introduced, together with copies of all such bills, and every other information relating thereto.

" Gentlemen,"—said his excellency to the messengers, in answer to the above--

" I request you will inform the house of assembly that I am not in possession of any official information respecting any bill introduced during the last or present session of the parliament of the United Kingdom, by any officer of his Majesty's government, concerning the financial affairs of this province : but a despatch addressed to me by the secretary of state for the colonial department, dated the 24th of December last, announces the intention of his Majesty's government to submit to the imperial parliament in the course of the present session a bill for the purpose of relieving the lords of the treasury from their present obligation of appropriating the duties referred to in my message of the 23d ulto., and for authorizing his Majesty to leave the appropriation to the colonial legislature. The date at which

it is proposed that the bill should come into operation is on the 1st of July, 1832. In order, however, to enable the government at home to give the earliest possible effect to the measures which may be taken by the colonial legislature for the satisfactory settlement of the question involved in the subject of my message of the 23d ulto., it is proposed to give his Majesty in council a power to bring the british law into operation at an earlier period than the 1st of July, 1832. If, therefore, the colonial act should provide for the commencement of the proposed civil list in January, 1832, or at any earlier period, then his Majesty's government would lose no time in advising the issue of an order in council to accelerate the commencement of the british act, so that the whole plan would come simultaneously into effect."

This also was immediately referred to the same committee to which the estimate and previous answers had been sent. This committee authorised to report from time to time on the divers matters committed to them, made their first report on the 7th March, being the day previous to that fixed for a call of the house and for taking into consideration the state of the province. It terminated as follows :— " Your committee being persuaded that the most material of the recommendations of the Canada Committee have not been carried into effect by his Majesty's government, although more than two years have now elapsed since the date of the report, and that the demands now made do not correspond with the recommendations of that committee on the subject of the financial differences, nor even with the schedule annexed to a bill introduced in the last session of the imperial parliament, by the colonial minister, and proposed to be

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appropriated by the colonial legislature, are of opinion that it is inexpedient that any further permanent provision for the expenses of the government be made." And upon this the house accordingly acted, finally concurring in the report of the committee, and voting an address to his excellency praying him to transmit to his Majesty's ministers the resolution of the house concurring in it, and rejecting the demand for a civil list during the king's life.*

On the 8th of March, the names of the members being called over, and before going into committee of the whole, pursuant to the order of the day, to take into consideration the state of the province and report of the committee respecting the estimate, Mr. Bourdages, seconded by Mr. Lafontaine, moved—

"That it be an instruction to the said committee, to consider whether it would not be expedient to grant no subsidy until the grievances of which this province has, during several years, complained to the Imperial parliament, be redressed; that is to say:—

* While with the assembly of Lower Canada, any thing like a permanent civil list was wholly out of the question, that of Upper Canada, in session at this period, with more wisdom, made a permanent provision of £7 209 a year for a civil list, receiving in return for it the whole of the crown revenues arising from the imperial act of the 14th Geo. III, ch. 88, amounting at this time to double that amount. The lieut.-governor, Sir John Colborne, in proroguing the legislature of that province, on the 16th March, 1831, thus expresses himself on the subject:—

"Honorable gentlemen, and gentlemen,—The expenses of the civil government which were supported till the year 1827, by the liberal grants of the parent state, can now be defrayed entirely from the duties raised under the statute of the 14th Geo. III.—The assignment, therefore, of this revenue to the disposal of the legislature has not only enabled you to make a permanent provision for the salaries of the principal officers of the government, and judges, which insures their constitutional independence, but it has also considerably increased the funds from which the annual supplies may be drawn."

"First.—Until that part of the act of the imperial parliament of the 14th Geo. III., cap. 88, imposing certain duties to be levied in the late province of Quebec, be repealed.

"Second.—Until the judges shall be expelled from the legislative and executive councils, and rendered independent during good behaviour.

"Third.—Until an entire reform shall have been effected in the composition of the legislative and executive councils of this province.

"Fourth.—Until the casual and territorial revenues of the crown shall be applied to defray the expenses of the civil government, and the administration of justice, under the control of the assembly of this province.

"Fifth.—Until the funds arising from the estates of the late order of jesuits shall be applied to the purposes to which they were originally destined.

"Sixth.—Until the lands of the crown shall be conceded in *franc aleu roturier*, to be governed by the french laws now in force in this province."*

These, though expressing the views of many of the members, were negatived as of too coercive a character and premature. The committee on the state of the province sat some days before coming to a termination, but finally adopted a series of resolutions submitted by Mr Neilson, upon which petitions to the king,

* The house divided on the question, and the names being called for, they were taken down as followeth:—

"Yeas—Messieurs Badeaux, Beaudet, Louis Bourdages, Caldwell, Demers, De Montenac, Dessaulles, Duval, Fisher, Heriot, Hoyle, Lafontaine, Larue, Létourneau, Mousseau, Quesnel, Solicitor Gen., Taylor, and Valois.—(19.)

"Nays—Messieurs Amiot, Archambeault, Baker, Baxter, Blanchard, Boissonneault, Brooks, Bureau, Cazeau, Courteau, Cuvillier, Déligny, Deschamps, De St. Ours, De Witt, Dionne, Pierre Antoine Dorion, Dumoulin, Fortin, Goodhue, Guillet, Heney, Huot, Joliette, Knowlton, Labrie, Lagueux, Laterrière, Lee, Leslie, Malhiot, Methot, Morin, Neilson, Noël, Panet, Peck, Proulx, Quirouet, Raymond, Stuart, Ant. Charles Taschereau, Pierre Elzéar Taschereau, Trudel, Turgeon, Viger, Wright, Wurtele and Young.—(50.)

"So it passed in the negative."

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lords and commons were founded.* The house went up to the castle with an address to the

* The petition to his Majesty ran as follows:—

"To the king's most excellent Majesty.

"May it please your Majesty.

"We your Majesty's dutiful and loyal subjects the commons of the province of Lower Canada, in provincial parliament assembled, confiding in the sentiments of justice and liberality which actuate your Majesty, humbly submit for your royal consideration:—

"That notwithstanding the progress that has been made in the education of the people of this province, under the encouragement afforded by the recent acts of the legislature, the effect of the impediments opposed to its general dissemination by the diversion of the revenues of the jesuits' estates, originally destined for this purpose, the withholding of promised grants of land for schools, in 1801, and the rejection in the legislative council of various bills in favor of education, are still severely felt throughout the province, and materially retard its prosperity.

"That the management of the waste lands of the crown has been vicious and improvident, and still impedes the settlement of these lands, by delays, expenses and difficulties, opposed to their easy and secure occupation by all persons without distinction, who may be disposed to become actual settlers thereon, and apply themselves to this branch of industry, so preeminently beneficial for the general prosperity of new countries.

"That the power of regulating the trade of the province, reserved by the parliament of the United Kingdom, however beneficially it may have been exercised on several occasions for the prosperity of the colony and the general good of the empire, has, nevertheless, from the variations and uncertainty of the duration of its enactments, occasioned injurious uncertainty in mercantile speculations, and prejudicial fluctuations in the value of real estate in the country, and in the different branches of industry particularly connected with trade.

"That the inhabitants of the different towns, parishes, townships, extra-parochial places and counties of this province, suffer from the want of sufficient legal powers for regulating and managing their several local concerns indispensable to improvement and their common welfare.

"That much uncertainty and confusion has been introduced into laws for the security and regulation of property, by the intermixture of different codes of laws and rules of proceeding in the courts of justice; and that the administration of justice is become insufficient and unnecessarily expensive.

"That this uncertainty and confusion has been greatly increased by enactments affecting real property within the colony, made in the parliament of the United Kingdom since the establishment of the provincial parliament, without those interested having even had an opportunity of being heard, and particularly by a recent decision on one of the said enactments in the provincial court of appeals.

governor, requesting he would forward the petition to his Majesty, for the purpose of be-

"That several of the judges in the courts in this province have long been engaged in, and have even taken a public part in the political affairs and differences of the province, at the same time holding offices during pleasure, and situations incompatible with the due discharge of their judicial functions, tending to destroy that confidence in their impartiality, in cases where the executive government is concerned, which is so essential to the peace and well-being of the community.

"That during a long series of years, executive and judiciary offices have been bestowed almost exclusively upon one class of subjects in this province, and especially upon those the least connected by property or otherwise with its permanent inhabitants, or who have shewn themselves the most averse to the rights, liberties and interests of the people.

"That holding executive offices essential to the proper and regular administration of the government, and having lost the confidence of the country, several of these persons avail themselves of means afforded by their situations, to prevent constitutional and harmonious co-operation of the government and the house of assembly, and to excite ill-feeling and discord between them, while they are remiss in their different situations to forward the public business.

"That there exists no sufficient responsibility on the part of the persons holding these situations, nor any adequate accountability among those of them entrusted with public money, the consequence of which has been, the misapplication of large sums of public money, the loss of large sums of public money and of the money of individuals, by defaulters, with whom deposits were made, under legal authority, hitherto without reimbursement or redress having been obtained, notwithstanding the humble representations of your petitioners.

"That the evils of this state of things have been greatly aggravated, by enactments made in the parliament of the United Kingdom, without even the knowledge of the people of this colony, which enactments have rendered temporary duties imposed by the provincial parliament permanent; leaving in the hands of public officers, over whom the assembly have no effectual controul, large sums of money arising within this province, which is applied by persons subject to no sufficient accountability.

"That the selection of legislative councillors has also been chiefly confined to the description of the inhabitants of the province before mentioned, or to public officers holding situations during pleasure, with large salaries paid out of the public revenue, and who, uniting in the same persons legislative, executive and judiciary powers, countenance, encourage and uphold abuses, and render all legislative remedies in the provincial legislature nearly impracticable.

"That while the people of this province suffer under the present state of things, and endeavour to obtain redress, they are not the less sensible of the advantages which they enjoy under your Majesty's government, and particularly of the more liberal policy adopted

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ing laid at the foot of the throne. " Mr. speaker, and gentlemen of the assembly"—said his excellency,—

" I shall not fail to transmit without delay to the secretary of state for the colonial department your petition to the king; and as it will no doubt be expected by his Majesty's government that my communication shall be accompanied by some observations of my own, referring to the various subjects embraced in the said petition, I think it necessary on the present occasion to make a few remarks, to which I

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towards this colony within the last two years; they nevertheless feel with sentiments of the deepest regret, that the hopes with which they were cheered, after a long period of unmerited suffering and insult, have been greatly diminished by the delays which have occurred in redressing many of the grievances complained of in their humble petition to the king and parliament in 1828, most of which were recommended to be removed by the select committee of the honorable the house of commons on the state of Canada, which reported in the same year; particularly—

" The interspersion of crown and clergy reserves among the lands granted by the crown.

" The evils resulting from imperial legislation for the internal concerns of the colony.

" The composition of the legislative council.

" The dependence of the judges, and their interference with the political concerns of the province.

" The want of responsibility and accountability of public officers, and of a tribunal in the colony for the trial of impeachments.

" The withholding of the revenues of the estates of the late order of jesuits, from the purposes of education.

" The management of the waste lands of the crown, in consequence of which applicants for actual occupation are prevented from freely possessing the same under secure titles, in sufficient quantities for cultivation, without unnecessary delay, and without any expense or burthen, other than the fair and necessary costs of survey and title.

" Your petitioners most respectfully submit, that most of the grievances and subjects of complaint above set forth, may be remedied by your Majesty's royal prerogative, and that such a result would be equally advantageous to all classes of your Majesty's faithful subjects in this province, and to the general welfare of the empire.

" Wherefore your petitioners most humbly pray that your Majesty will be pleased to take this their humble petition into your gracious consideration, and exercise your royal prerogative for remedy of the evils of which they complain, to the end that they may be wholly and for ever removed.

" And, as in duty bound, your petitioners will ever pray."

solicit your serious attention ; more especially as it may be that I have yet something to learn regarding the ulterior views of the house of assembly. Chap. xxx. 1831.

" I can assure you, gentlemen, that I have derived satisfaction from listening to the petition which has just been read by Mr. Speaker, because the subject matter of it is distinct, and tangible ; and because I feel assured that of the causes of complaint therein set forth many will eventually be removed, and others modified ; in the mean while it is very agreeable to me to have it in my power to state that some of those causes of complaint have been already put by me in a train of amelioration at least, if not of removal altogether ; and I beg the house of assembly to believe, that my efforts shall be unremitting in pursuing the same course to the utmost extent of my authority as the king's representative.

" Thus far I can with a safe conscience declare that the present communication is satisfactory to me ; but I cannot conceal from the house that it would have been infinitely more so, could I feel assured that the whole matter of their complaints is comprised in this petition. Gentlemen, I must go a step further than this, and confess to you that I cannot divest my mind of anxiety on this subject—it is with the view of being relieved from this state of anxiety that I now come forward to intreat you will admit me to your confidence, and acquaint me whether I am to expect any, and what further communications on the subject of complaints and grievances?

" I think I have even a claim upon you for the confidence I now solicit.

" The propositions which upon a recent occasion I was commanded by the king to make to you on the subject of finance, were laid before you in the plainest, and most straight-forward manner—nothing was concealed—nothing was glossed over ; and I even believe that I should have been justified had I made those propositions more palatable than I have done ; but I considered that any thing which could bear, even for a moment, the appearance of trick or manœuvre, on so grave an occasion, was unworthy of his Majesty's government, and an injustice to the frank and loyal character of the canadian people.

" What I now ask in return for this fair dealing is a cor-

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responding proceeding on the part of the house of assembly.

"Am I to understand that the petition which I have just heard read, conveys all that the house of assembly have to complain of up to this day? or am I to understand that there remains something behind—some unripe grievance or complaint which it may be intended to bring forward hereafter, when those now produced shall have been disposed of? This is the information I ask of you. This, gentlemen, is the information which I will even implore you to afford me, in the name of the king, our sovereign, who is sincerity itself; and in the name of the brave and honest people of Canada who are so well entitled to fair dealing in every quarter: and now, if there be any stray complaint—any grievance, however inconsiderable in itself, which may have been overlooked when this petition was adopted by the house, I beseech you, gentlemen, to take it back again, in order that the deficiency may be supplied, and that thus both king and people may be enabled at one view, to see the whole extent of what you complain of, and what you require.

"Whether this appeal to your candour shall draw from you any further declaration, stating that your petition contains the whole matter of your complaints and grievances, or that you shall maintain silence, I shall equally consider that I have acquired a full and distinct knowledge of the whole of your complaints and grievances up to the present period; and your petition will be accompanied by me with an assurance to that effect; and my most fervent wishes that it may be productive of such measures as shall restore perfect harmony to this favored land, where, I firmly believe a larger share of happiness and prosperity is to be found, than amongst any people in the universe."

To this eccentric answer, implying in some sort, the expectation of an impromptu reply from the assembly, wholly out of the question according to parliamentary rules and usage, without previous deliberation of the body, the members listened with attention and silence, but no further notice was taken of it.

Many out of doors applauded it as a smart and seasonable rebuke, that might check the disposition of the assembly to hunt up grievances; but by many also it was deemed unbecoming, and injudicious in the governor so freely to interpose his admonitions to the representatives of the people, while in the act of presenting him a petition addressed to their sovereign, expressive of their grievances after mature deliberation, and the whole couched in dutiful and respectful language.

While the resolutions on the state of the province were under consideration of the house, Mr. Lee, seconded by Mr. Morin, moved in amendment to the 15th, or rather as a supplement to it after it had passed, the following in relation to the legislative council :—

"That the means of re-establishing harmony between the several branches of the legislature of this province, and of rendering its proceedings more conformable to those of the parliament of Great Britain, would be to amend the imperial act of the 31st Geo. III., cap. 31, so far as the same relates to the constitution of the legislative council of this province, in such manner that the said council may be as free and independent of the governor as the nature of the colony will admit of, by adopting a system of election."*

The division (yeas 18, nays 24,) sufficiently evinces that the proposition was not unpopular,

* "Objections having been made to this motion's being received;
"And Mr. Speaker having decided in favor of receiving the same,
"An appeal was made to the house from Mr. Speaker's decision,
"The house divided thereon :—For Mr. Speaker's decision, 24; against it, 18.
"So it was carried in the affirmative.
"Ordered, That the said motion be referred to the committee of the whole house to take into consideration the state of the province."
—*Journal House of Assembly.*

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but nothing further was done on the subject this session. It was, however, subsequently revived and contributed much to the troubles that followed. The present was the first time a distinct proposition for making the legislative council elective was brought before the assembly, and a more unlucky one could not have been fallen upon.

The time was now come when the assembly were to empty the phials of their wrath upon Mr. attorney general Stuart. Early in the session " the entries in the journals of the previous year containing a petition of divers inhabitants of Montreal, complaining of the conduct of the attorney general, and the report of the special committee thereon" were ordered to be read, and the same were forthwith then referred to " the standing committee of grievances." Besides the complaints against this gentleman by Mr. Wolfred Nelson, relating to the election at William Henry, and by Mr. Glackemeyer, previously mentioned, for exacting fees upon the professional commissions reissued to notaries, upon the late demise of the crown, others of a grave character had, during the session, been preferred to the assembly against him. One was by a Mr. John Beattie, of Quebec, complaining of the attorney general for omission of duty in neglecting to prosecute certain persons who had cruelly beaten and ill-treated him, and against whom he had been unable to obtain redress; and of the arrogance of that functionary towards the petitioner when

seeking for justice through his instrumentality. The other, from Mr. Lampson, also of Quebec, who complained that as lessee of the domain lands of the crown called "the King's Posts," for which he paid into the treasury, as he stated, £1000 a year, besides the investment of £40,000 in the trade of those posts, he was injured by the attorney general, that officer, instead of supporting his interests as lessee of the crown, lending his ministry as a private counsel and attorney in aid of the interests of the Hudson Bay Company, who having recently taken a lease of the seigniory of "Mille Vaches," in the neighbourhood of the King's Posts, were carrying on business, as alleged by the petitioner, in opposition to and in a manner interfering with his rights as lessee of those posts.

The standing committee of grievances made a report on the complaint and petition from Montreal, against Mr. Stuart; upon which articles were drawn up and a petition framed to the king, praying his Majesty "would be pleased to dismiss James Stuart, esquire, from the important office which he now fills of attorney general of this province, and be pleased henceforward not to grant unto the said James Stuart any place of trust whatsoever in this province, and this may it please your Majesty: —

"Because he has abused the power with which he has been invested as such attorney general, so as to betray the confidence and trust with which your Majesty has honored

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him, and that he has, by the serious offences which he has committed in his high office, rendered himself totally unworthy of your Majesty's future confidence.

" Because the said James Stuart, esquire attorney general of this province, by persisting in prosecuting before the superior tribunals, persons accused of minor offences, which ought to have been prosecuted at the quarter sessions of the peace, has been guilty of malversation in his office, and this with the sordid view of increasing his emoluments.

" Because the said James Stuart, esquire, attorney general of this province, in order to shew his attachment to the executive government of the day, has been guilty of partiality and persecution, in the execution of the duties of his office, by instituting libel prosecutions, unjust and ill-founded, against divers persons; and has thereby rendered himself unworthy the confidence of your Majesty's subjects in this province.

" Because the said James Stuart, esquire, attorney general of this province, by making at the election at Sorel (or Borough of William Henry,) in the year 1827, where he was one of the candidates, use of threats and acts of violence, to intimidate some of the electors of the said place, and by promising impunity to others, displayed his contempt for the freedom of election, and has infringed the laws which protect it.

" Because the said James Stuart, esquire, attorney general of this province, by prosecuting for perjury, certain electors of Sorel aforesaid, who had voted against him, and by refusing or neglecting to prosecute others who were no better qualified, but who had voted in his favor, was actuated by motives of personal revenge, which made him forget his duty, and the oath he has taken as his Majesty's attorney general in this province; and that it would be dangerous to confide to him powers of which he has made use in so arbitrary and unjustifiable a manner.

" Because the said James Stuart, esquire, attorney general of this province, by inducing at the said election of Sorel, certain electors who were not qualified to take the oaths usual on such occasions, although he knew that these individuals were not qualified, has been guilty of subornation of perjury.

" Lastly, because, by his conduct for several years past, the said James Stuart, esquire, attorney general of this Pro-

vince, has brought the administration of criminal justice in this province into dishonor and contempt; and that he has been guilty of high crimes and misdemeanours; that his conduct has utterly deprived him of the esteem and confidence of the inhabitants of this province, and that his continuing to occupy any place of trust therein, could not be otherwise than injurious to your Majesty's government in this province." Chap. xxx. 1831.

An address was presented to his excellency, (at the same time with that to the king on the state of the province) praying he would be pleased to forward the address of the house to his Majesty relating to the dismissal of Mr. Stuart, for the purpose of being laid at the foot of the throne, and that his excellency would suspend Mr. Stuart from his office until his Majesty's pleasure should be known. The governor said that he would not fail to transmit without delay, to the secretary of state, their petition to the king, praying that his Majesty would be pleased to dismiss the attorney general from his office. But with respect to the address to himself requesting he would suspend that officer, he answered—

"I beg you to be assured that it is quite impossible that you can take a deeper interest than I do in whatever concerns the purity of the administration of justice in this province; for it is a matter which affects no less the character of the government than the interests of the public.

"Concurring with you as I do most fully on this point, and equally anxious with you to see the contemplated charges against the attorney general, brought to a hearing, the house of assembly on their part will, I am sure, concur with me in opinion, that to suspend from his functions one of the highest law officers of the crown, is a step which ought not to be hastily adopted; and I must therefore trespass on the paience of the house for a day or two before I can return a

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definitive answer to the prayer of this address, calling upon me to suspend the attorney general from the exercise of his functions, until his Majesty's pleasure be known."

The standing committee of grievances having reported upon the complaint of Mr. Lampson, the house concurred in the report, adopting the resolutions recommended by the committee.* These were also laid before the governor by an humble address, as were also those on the petition of Mr. Glackemeyer,† with the

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* "Resolved, that the attorney general of this province, is by law and custom, the officer who is specially charged with the duty of maintaining the rights of the crown, as well as those of the public, as the present attorney general, James Stuart, esquire, expresses himself in his letter addressed to the civil secretary, and dated on the 24th of December, 1830.

Resolved, "that the attorney general of this province ought not to practice as a private attorney, in any case where he might be liable to be placed in opposition to the interests of the crown, and of the public, who are exclusively entitled to his services.

Resolved, "that the said James Stuart, esquire, attorney general as aforesaid, did, in the matters relating to the complaints made by the petitioner, William Lampson, become counsel and attorney for the partners, servants, or agents of the Hudson's Bay company.

"Resolved, that thus becoming counsel and attorney for the above mentioned individuals, the said James Stuart, esquire, placed himself in opposition to the interests of the lessee of the crown, and, by a necessary consequence, also in opposition to the interests of the crown itself.

"Resolved, that the conduct of the said James Stuart, esquire, on the occasion of the disputes pending between the Hudson's Bay company and the lessee of the crown of the King's Posts, has been exceedingly unjust, vexatious, and equally injurious to the rights and interests of the crown, and those of its lessee, in the enjoyment of the posts known by the name of the King's Posts.

"Resolved, that this house perceive, in this conduct of the said James Stuart, esquire, a new motive to solicit his Majesty's government to dismiss him from his situation of attorney general of this province."

† The following are the resolutions of the assembly on this subject:—

1.—"Resolved that the commissions of attornies, notaries, and of other persons who exercise professions in this province, emanating from the law, cannot be affected by the death of the king, and that

request that his excellency would be pleased to transmit the former to be laid at the foot of the throne, and that he would take the latter into consideration, and adopt such measures thereupon as to him should seem most proper. Chap. XXX. 1831.

On the 28th of March, the following message from the governor, was sent to the assembly:—

"The governor in chief having taken into his most serious consideration the request of the house of assembly, to suspend from the exercise of his official functions, the honorable James Stuart, attorney general of this province, until the king's pleasure be known touching certain matters of complaint preferred against the said attorney general, in a petition from the house of assembly addressed to his Majesty, now informs the house that he has decided upon suspending the attorney general from the exercise of his functions accordingly.

"Having taken this important step in compliance with the request of the house of assembly, the governor in chief relies upon the justice of the house to furnish the attorney

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the renewal of them ought not to have been required on the demise of his late Majesty George the fourth.

2.—"Resolved, that James Stuart, esquire, attorney general of this province, had no right to the fees or emoluments which he has received upon the new commissions which he had caused to be made out for the attornies and notaries of this province, on the demise of his late Majesty George the fourth.

3.—"Resolved, that the said James Stuart, esquire, attorney general of this province, by introducing into commissions of the notaries of this province, alterations by which those commissions are assimilated to the commissions of public officers whose appointment depends upon his Majesty, has been forgetful of his duty, and rendered himself guilty of a contempt of the law, which did not allow of the introduction of the said alterations.

4.—"Resolved, that it is, by an abuse, contrary to law, that the words "during pleasure," were inserted in the forms of commissions for attornies, notaries, and other persons exercising professions in this province, and that the said words ought to be omitted in such forms."

It was upon the strength of these last resolutions, relating to commissions, that lord Goderich dismissed Mr. Stuart from his office, at the same time acquitting him of all the other matters laid to his charge.

Chap. xxx. general with copies of the various documents upon which the charges against him are founded.

1831. "The governor in chief cannot too pointedly guard the house of assembly against drawing an inference from his proceeding on this occasion, that he has thereby taken a part or pronounced a judgment in the cause now pending between the house of assembly, and the attorney general, for it is a cause in which he cannot suffer himself to be considered as either judge or party."

The clerk of the assembly was accordingly ordered to furnish Mr. Stuart with a copy of all the proceedings and documents relating to the complaints of the house against him, and upon this the following resolutions were immediately adopted:—

"Resolved, That the clerk of this house be authorized to deliver to James Stuart, esquire, attorney general, a copy of the second report of the committee of grievances, and of all the proceedings and documents relating to the complaints of this house against the said James Stuart.

"Resolved, That in the present state of the affairs of this province, it is indispensably necessary that some person, having the confidence of this house should proceed forthwith to England, to represent to his Majesty's government the interests and sentiments of the inhabitants of this province, and support the petitions of this house to his Majesty and both houses of parliament.

"Resolved, That in the event of the bill sent up by this house to the legislative council, on the fifth instant, not receiving the concurrence of that house in the present session, the honorable Denis Benjamin Viger, esquire, member of the legislative council, named agent of the province in the said bill, be requested to proceed to England without delay, for the purposes mentioned in the foregoing resolution.

"Resolved, That it is expedient that the necessary and unavoidable disbursements of the said Denis Benjamin Viger, for effecting the purposes aforesaid, not exceeding one thousand pounds, be advanced and paid to him by the clerk of

this house out of the contingent fund thereof, till such time as the said disbursements can be otherwise provided for." Chap. xxx. 1831.

Mr. Stuart, shortly after these events, proceeded to England to vindicate himself, now tasting of the cup from which he had administered, some years before, such bitter draughts to the chief justice, Sewell, and from the same hands by whose aid he had prepared the mixture for him.

The imperial act known as "*The Canada Tenures Act*," being deemed a grievance, the assembly, on motion of Mr. Peck, from the eastern townships, adopted the resolutions below,* upon which an address to the king was drawn up and transmitted through the governor, "praying his Majesty to cause the said act to be repealed, that the people of this colony may continue to enjoy the security and protection afforded them by the laws to which heretofore they have been subject, and for which they feel the strongest attachment, by reason of the

* 1.—"Resolved, that the introduction of the english law into certain parts of this province, by an act of the imperial parliament, passed in the sixth year of the reign of his late Majesty George the fourth, intituled, "An act to provide for the extinction of feudal and seignioral rights and burthens on lands held *à titre de fief* and *à titre de cens* in the province of Lower Canada; and for the gradual conversion of those tenures into the tenure of free and common soccage, and for other purposes relating to the said province," without confirming all such transactions as had been previously entered into in good faith, has introduced the greatest confusion into all parts of the province, by destroying acknowledged rights, and by affording facilities for fraud and oppression.

2.—"Resolved, that the law of England, as introduced into certain parts of this province, in virtue of the said act, is opposed to the feelings of the inhabitants of this province, incompatible with their education and habits of life, and has been forced upon them contrary to their rights, interests and desires.

3.—"Resolved, that the said act ought to be repealed."

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benefits derived from these judicious enactments, so well adapted to the country and its inhabitants."*

The complaints against Mr. justice Fletcher, the provincial judge for St. Francis, ended in a report against him, by the committee to whom they had been referred, and of which Mr. Peck, a law-attorney practising in his court was chairman. The report was concurred in by the house and several resolutions† were

* Why this act which authorises a commutation of the feodal or seigniorial tenure of land, into that of free and common soccage, as in the eastern townships, and which was intended by the british government as a measure of relief to the people of Lower Canada, should be deemed a grievance, and particularly in the eastern townships, is not at first view easily understood. The following from a report of the debates on the subject may explain it:—Mr. Peck, an attorney from those townships, believed—"there was no one in the townships who could desire to have the odious law of primogeniture enforced upon him—then again there was the english system of conveyancing, well called the mystery of mysteries—there were not two persons in Canada who understood it—the effects of mortgages, too, were sometimes odious—he would be satisfied with an amendment of the french law."

† 1.—"Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of having usurped a criminal jurisdiction, and of having exceeded his powers by taking judicial cognizance of pretended contempts of court alleged to have been committed by Silas Horton Dickerson, Frs. Armstrong Evans, Pierre Joseph Cressé, Ebenezer Peck and Andrew Lovejoy.

2.—"Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of having harrassed and oppressed several persons, by causing them to be imprisoned under colour and pretext of these pretended contempts of court.

3.—"Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of having himself unlawfully acted as accuser and as judge, and given judgment upon his own complaints against the said persons, for the said pretended contempts.

4.—"Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of having arbitrarily and unlawfully punished the said Silas Horton Dickerson, by fine and imprisonment, because he had instituted an action of damages against the said John Fletcher, in the court of king's bench at Three Rivers, for having inflicted upon him the pain of imprisonment for a pretended contempt of court.

adopted on the occasion, which were submitted to the governor, praying he would take



5.—" Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of having arbitrarily and illegally condemned the said Silas Horton Dickerson, to pay several fines for these pretended contempts, and of having compelled him to pay the said fines, by the imprisonment of his person.

6 —" Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of having, by these excesses of power, illegal acts, and arbitrary encroachments upon the authority of the king and of his superior courts, perverted and abused his Majesty's authority and justice, and exposed his government and laws to the reproach and contempt of the inhabitants of this province.

7.—" Resolved, that John Fletcher, esquire, provincial judge of the inferior district of St. Francis, is guilty of being partial and arbitrary in his decisions as a judge of the said court, and has acted in open violation of the laws he was bound to administer and respect.

8.—" Resolved, that the proceedings of the said John Fletcher, esquire, and the judgments and orders by him made and rendered against Andrew Lovejoy and James Molton, are arbitrary, illegal and unprecedented, and are subversive of the rights and liberties of his Majesty's subjects.

9.—" Resolved, that the facts alleged in the petitions presented by Silas Horton Dickerson and Francis Armstrong Evans, if true, are sufficient to require that the said John Fletcher, esquire, be deprived of the office he now holds.

10.—" Resolved, that an humble address be presented to his excellency the governor in chief, praying that his excellency will take the matters of complaint brought against the said John Fletcher, esqr., into his most serious consideration, and adopt such proceedings as will afford immediate relief and protection to that portion of his Majesty's subjects who reside within the jurisdiction of the Court over which the said John Fletcher, esquire, now presides."

The report of the special committee among other things contained the following:—" Your committee find that on several occasions, in open court, Mr. Fletcher has applied the most abusive epithets to the inhabitants of the district of St Francis, calling them " brute men of the forest," and has used other most insulting and indecorous language in relation to the said inhabitants, tending to increase discontent and dissatisfaction among the people, and destroying their respect for, and confidence in, the said court.

" Among the several punishments for pretended contempts, inflicted upon different individuals by Judge Fletcher, your committee find one if possible more extraordinary and unheard of than any others,—it was in the case of an individual named James Molton, who was fined by the judge in the sum of five shillings, sterling, assigning as a reason that he did not like his countenance."

Mr. F. who had been brought up as an attorney in England, came to Canada shortly previous to the late American war, where he was admitted to practise as a barrister. He was a man of erudition and extensive knowledge, but exceedingly eccentric.

Chap. xxx. 1831. them into consideration and adopt such proceedings as would afford immediate relief and protection to that portion of his Majesty's subjects who resided within the jurisdiction of the court over which Mr. Fletcher presided. His excellency answered that he would take the matters of complaint into his serious consideration, and take such steps thereupon as the case might appear to him to require. Mr. Fletcher was not, however, suspended from his functions, and the complaint ended in smoke.

The committee of grievances made, shortly before the close of the session, a report upon the complaint of Mr. Gugy against Mr. justice Kerr. "The petitioner having stated"—they said—"that he had still several witnesses whom he wished to call before the committee, and whose evidence was of great importance, your committee are of opinion, without prejudice to the merits of the question, that the facts already proven, are of such a nature as to require the attention of your honorable house to the continuation of the enquiry at as early a period as possible in the next session." The matter accordingly lay over to the following session.

These inquiries relating to alleged grievances, it should be mentioned, were not only *ex parté*, but the complainants and their witnesses were paid from the contingencies of the assembly, for their time and attendance at the seat of the legislature to give their testimony

and in prosecuting them. Nor was this the worst feature in them. The testimony, however garbled and prejudicial it might be to those concerned, was printed at the public expense "for the use of members," and went abroad to the public under the apparent sanction of the assembly, as evidence incontestable of the guilt or misconduct of the accused, before any opportunity were afforded him of justifying, defending or explaining his conduct, a course, it must be admitted, subversive of the first and plainest principles of justice. Chap. XXX. 1831.

Towards the end of the session it became difficult to proceed with business in the house for want of a quorum, (43 members) which consequently was reduced to thirty for the remainder of the session. Mr. Young, auditor of public accounts, about this time stated in debate in the assembly, that he had authority to mention to the house that two of the judges in the council, had not taken the oath nor their seats this session, and that his excellency had signified to the third that he should retire, and that, in fact, there now only remained the chief justice in that body. This was an important step towards the reform and independence of that branch of the legislature.

The supply bill for the present year, in aid of the civil expenditure, was in form the same as for the previous years, giving "from the unappropriated monies in the hands of the receiver general, such sum or sums of money as together with the sums already appropriated

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by law for the said purposes should amount to a sum not exceeding £46,549 5s. 11d., sterling." Various liberal appropriations independently of these and the usual annual votes in favor of charitable and scholastic institutions were also made. The sum of £2,500, currency, was given for repairing the ancient Castle of St. Lewis at Quebec, £1,500 for the purchase of a steam-dredging vessel, £4,000 for improving the navigation of the river Richelieu, in addition to certain other unexpended appropriations for the same purpose. £1384, currency, for the relief of indigent sick emigrants from the United Kingdom. £10,201 for improving the navigation of the St. Lawrence, between the Cascades and Lake St. Francis. £9,000 currency, for enlarging the parliament building at Quebec, besides a £1,000 sterling a-year, in perpetuity, to the roman catholic bishop of Quebec, for his rights in that building (formerly the *Eveché*, or Episcopal palace,) which his Majesty was now authorized to acquire as public property, on behalf of the province. Upwards of £10,000, currency, were voted for light-houses on Anticosti, requisite for the safety of navigation on that dangerous coast. The commissioners for the improvement of the harbour of Montreal were, in addition to the monies already obtained by law for that purpose, authorized to borrow, on the credit of the province £10,000,currency more; and for various new roads, public improvements in highways, £47,833, currency were voted,

and for the encouragement of education and schools £13,000. Among the bills passed there was one for taking a census of the province, and for obtaining certain statistical returns, and two others incorporating the cities of Quebec and Montreal, which being reserved for the royal pleasure were sanctioned. A bill was also passed declaring persons of the jewish religion, being natural born british subjects residing in this province, entitled to the same rights and privileges as other subjects of his Majesty therein.

His excellency prorogued the assembly on the 31st March, with the following rather laconic speech:—

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—I cannot close the present session of the provincial parliament, without expressing my admiration of the unremitting attention you have bestowed on the public business of the country, and your unwearied exertions in performing all your other parliamentary duties.

"Gentlemen of the house of assembly,—In his Majesty's name I thank you for the supplies granted by you in aid of the monies already appropriated by law for defraying the expenses of the civil government and for the administration of justice.

"The measure of my thanks would have been complete, had circumstances enabled me to assure his Majesty's government, that the propositions on the subject of finance lately submitted to you by the king's command, had been favourably entertained.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—The liberal appropriations made during the present session, are calculated to promote the general prosperity of the country, by calling forth its powers of pro-

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duction, and you may rest assured that my exertions shall not be spared in applying the monies which you have been pleased to place at my disposal, to the best of my judgment, and with all due regard to economy."

The public accounts laid before the assembly this session, shew the gross revenue of the province for the year ended 5th January, 1831, to have been £201,422, currency. The proportion due Upper Canada was £37,400 which, with other deductions of collection, &c., left Lower Canada a net income for the year, including the amount outstanding in bonds, of £149,468, currency.

Among the miscellaneous matters of the present year, deserving of notice, are the following:—The french journal "*Le Canadien*," the suppression of which, by Sir James H. Craig, had taken place in 1810, was re-established, and which, fanning the embers of discord from the present time till the outbreak, in 1837, essentially contributed to that, and the unhappy events attendant upon it. A taste for journalism and the literature of the journals, in french as in english, had of late years increased prodigiously, not only in Lower Canada, but generally in British America.* Much of the

* "We received, Monday morning, nine different newspapers from Upper Canada. Besides these there are now published eight or ten others. We have already received from the Lower Provinces two newspapers, the St Andrew's Courant, and Pictou Observer. The total number of newspapers in the Lower Provinces is thirteen. In Lower Canada there are thirteen.—Total in British America, between 44 and 46 newspapers."—*Mr. Neilson's Quebec Gazette, 10th August*, 1831.

evils in which Lower Canada has been involved, is attributable to the injudicious and mischievous writings of political partizans on both sides, who, having obtained possession of the press, and appealing to national prejudices and antipathies, in support of the respective parties for the time, occupying the arena, have unhappily produced a feeling which time and good government only can thoroughly remove.

The steamer "Royal William," of 1370 tons, built at Quebec, by a company incorporated by act of the legislature, at a cost of £16,000, to run between this port and Halifax, touching at Miramichi and the other intermediate ports, commenced her first trip in August. She continued running for the present and ensuing year, but the enterprize not turning out profitable, although encouraged by legislative aid, was finally abandoned.

The Chambly Canal, for the opening of which a company had, in 1823, been formed and incorporated, but failing to proceed upon the work, was this year undertaken and commenced at the public expense, pursuant to an address of the assembly to the governor. This canal has been, so far,* an unprofitable concern to the province, not realizing sufficient to defray the expense of those employed to

* That is, to this period, 1849.

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superintend the lockage. The Rideau Canal, a work undertaken by the imperial government, and effected at the expense of upwards of a million sterling, was this autumn sufficiently completed to admit of the recal of lieutenant-colonel By, of the Royal Engineers, under whose superintendence the work, from the beginning, had been carried on.

Some uneasiness was occasioned in Lower Canada, at the appearance this summer of a pamphlet published at Kingston, in Upper Canada, in which it was proposed to annex Montreal to that province, by way of giving it a sea-port, or port of entry of its own, independently of Lower Canada.*

* The subject was previously noticed in the Montreal Canadian Courant, in reference to which the following editorial article appeared in the Quebec Gazette of the 8th June:—

"The project of giving the city and island of Montreal to Upper Canada, is not a new one: it was the forlorn hope in 1828, of the party which had been at the bottom of every attack on the rights and liberties both of Upper and Lower Canada; ever since, by the natural operation of the established constitution, it felt that it was fast losing that power which it had so long misused for partial and selfish purposes. When the renewal of the legislative union became hopeless, the project was urged before the Canada Committee, but it met with no support from that committee; hence the suggestion of a petition from Montreal itself! Let the Island of Montreal be polled, and if nine out of every ten of the inhabitants able to bear arms are not willing to fight rather than be separated from their brethren of Lower Canada, then we are willing to lose all character for political discrimination, and ninety-nine out of 100 of all the rest of the province, are ready to support them. Nothing that will diminish or weaken in any degree the firm and united phalanx which Lower Canada has so conspicuously exhibited in favor of the constitutional rights of british subjects in the colonies, will ever be countenanced by any considerable portion of its inhabitants. As to the scandalous libels on its representative assembly, respecting a want of public spirit and a disposition to improve the condition of the country, they have been so long resorted to by disappointed and greedy ambition, that all those who take any interest in canadian affairs, now know what value to set upon them."

The governor in chief presented the ladies of the Ursuline Convent, in Quebec, this autumn, a marble slab to the memory of Montcalm, which was placed in their Chapel, bearing the inscription— Chap. XXX. 1831.

HONNEUR
A
MONTCALM!
LE DESTIN EN LUI DEROBANT
LA VICTOIRE,
L'A RECOMPENSE' PAR UNE
MORT GLORIEUSE.

The emigration from the United Kingdom (principally from Ireland) was great, exceeding 50,000. Mr. Neilson, in an article published in the Quebec Gazette, of 11th November, 1831, truly observes—" The effect of the transient emigration on the *permanent* inhabitants of Lower Canada this year, including the actual settlers of the description above mentioned, has been similar to the passage of an immense army, much exposed and ill-supplied, and leaving the inhabitants to take care of and provide for the sick, wounded and disabled, and bury their dead."

The official returns of the Customs at Quebec, make the arrivals from sea at this port, from the commencement of the navigation of the St. Lawrence, the present year, to the 7th November, 1016 vessels—tons 261,218.

The following estimate of the population of the Canadas, at the several periods below stated, appeared in the Quebec Mercury of the 22d October, 1831, and being reproduced

Chap. XXX. 1831. in other contemporary papers, may be considered, though not on precise data, a tolerable approximation to the real figures:—

| *Years..* | *Upper Canada.* | *Lower Canada.* | *Total.* |
|---|---|---|---|
| 1795, | | | 184,000 |
| 1800, | | | 245,000 |
| 1805, | 80,000 | 256,000 | 336,000 |
| 1810, | 96,500 | 299,000 | 395,500 |
| 1815, | 126,500 | 363,500 | 490,000 |
| 1820, | 165,000 | 424,600 | 589,600 |
| 1825, | 216,000 | 513,000 | 729,000 |
| 1830, | 274,000 | 624,000 | 898,000 |

## CHAPTER XXXI.

Erroneous measure of the government at home with respect to the crown revenue in the province—parliament meets—governor's speech—vote re-expelling Mr. Christie—despatch from the minister relating to complaints of the assembly at the last session—resolutions on the same—answer of the governor—judges not to be hereafter named to the legislative council—bill to incapacitate judges accordingly introduced—Mr. justice Kerr—Mr. justice Fletcher—independence of the judges recommended—assembly in committee on composition of the legislative council—bill for the independence of the judges passed—call for a civil list of only £5,900—rejected by the assembly—message relating to clergy reserves—estimates for the year 1832—Canada tenures act—waste lands of the crown—impeachment of Mr. justice Kerr—address to the governor on the subject—his answer—message from the governor recommending a tax on immigrants—bill to appoint Mr. Viger agent in England—resolution touching Mr. Stuart—Mr. Fletcher exonerated by the governor from complaints by the assembly—another petition against him—Mr. P. Panet a member of the assembly in the executive council, as the medium of communication between the governor and assembly—jesuits estates appropriated by act to purposes of education exclusively—address and answer relating to post-office—prorogation, &c.—speech—census of the population—Messrs. Duvernay and Tracey committed to prison by the legislative council, for an alleged breach of privileges—their petitions on the subject to the assembly.



WHILE the assembly of Lower Canada were refusing a permanent civil list, the government

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at home was absurdly enough taking measures to divest itself of the permanent revenues in the province, at its disposal, for defraying the administration of justice and the support of the civil government thereof. It was vainly imagined that by placing the whole of the crown revenues, estimated at £31,000 a year, at the disposition of the legislature, the assembly would, with a corresponding spirit of liberality, make a permanent provision for the salaries of governor and judges, with certain other contingent expenses, amounting in all to about £19,000 per annum, but they counted without their host, no promise or pledge to that effect being at any time given by the assembly.

A bill, accordingly, was introduced by lord Howick, under secretary of state for the colonial department, by which, as we find in the reported debates in parliament, he intended to settle the financial difficulties in Canada. This bill received the royal sanction on the 22d September, 1831, being intituled, "An act to amend an act of the 14th year of his Majesty king George the third, for establishing a fund towards defraying the charges of the administration of justice and support of the civil government of the province of Quebec, in America,"* but which, far from settling the

* (Preamble recites 14 Geo. III., chap. 88.)
"And whereas the said province of Quebec hath, since the enactment of the said act, been divided into two provinces of Upper and Lower Canada: and whereas it is expedient to make further provision for the appropriation of the duties raised, levied and collected under the said act: Be it therefore enacted by the king's most excellent

existing dificulties, as the minister expected, increased them. With characteristic foresight, the duke of Wellington entered his protest against the bill, in its passage through the house of lords.*



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Majesty, by a with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for the legislative councils and assemblies of the said provinces of Upper and Lower Canada, respectively, by any acts to be by them from time to time passed, and assented to by his Majesty, his heirs and successors, or on his or their behalf, to appropriate, in such and to such purposes as to them respectively shall seem meet, all the monies that shall hereafter arise by or be produced from the said duties, except so much of such monies as shall be necessarily defrayed for the charges of raising, collecting, levying, recovering, answering, paying and accounting for the same."

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* "LORDS' JOURNALS, 6th September, 1831.

"The order of the day being read for the third reading of the bill entitled, "An act to amend an act of the fourteenth year of his Majesty king George the third, for establishing a fund towards defraying the charges of the administration of justice, and support of the civil government within the province of Quebec, in America."

"It was moved that the said bill be now read the third time.

"Which being objected to;

"The question was put thereupon?

"It was resolved in the affirmative.

"*Dissentient.*

"Because the bill transfers to the legislative council and assemblies of Upper and Lower Canada, by an act to be, by those legislatures respectively passed, and assented to by his Majesty, the exclusive appropriation of the duties levied under the authority of the act of the 14th Geo. III., chap. 88, hitherto applied, by warrant of the lords of the treasury, towards defraying the expense of the administration of justice and the support of the civil government in those provinces respectively, by the authority of the same act.

"The house of assembly of the province of Lower Canada has, up to this time, omitted to make any permanent provision to defray the expense of those charges, in that province; and the judges and others employed in the administration of justice—and the governor—and the officers of the civil government, are left to be provided for by vote of the legislative assembly of the province.

"These persons will thus become dependent upon the continued favor of the legislative assembly for the reward of their labours and service; the administration of justice within the province of Lower

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The parliament was opened on the 15th November. The governor informing the legislature in his speech, that the appropriations of the previous session, for internal communications and other objects of public utility had been expended with judgment and a due regard to economy, by the commissioners appointed for the purpose, recommended for the completion of the works in progress, such further appropriations as might be thought necessary. He informed the assembly that it would be his duty to communicate to them copy of a despatch addressed to him by Viscount Goderich, his Majesty's principal secretary of state for the colonial department, having reference to their petition to his Majesty, touching certain matters of complaint, which petition he had forwarded in the course of last session at their request, to be laid at the foot of the throne.

"Although the flourishing state of the province is a matter of public notoriety, because happily it is felt by all its inhabitants, I cannot"—said his excellency,—"resist noticing this subject on the present occasion, that I may enjoy the pleasure of offering you my congratulations upon it.—The practical effect of this state of prosperity, as connected with the objects of your present meeting, will be, I doubt not, to give fresh energy to your efforts, for the further improvement of the country. For myself, gentlemen, be assured that no diligence shall be wanting on my part to

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Canada can, no longer, be deemed independent; and his Majesty's subjects will have justice administered to them by judges, and will be governed by officers, situated as above described.

"WELLINGTON."

"Then the said bill was read the third time.

"The question was put, "Whether this bill shall pass?"

"It was resolved in the affirmative."

give effect to those measures, which your wisdom and experience shall devise. Chap. XXXI.

"Gentlemen,—When I addressed you at the opening of the last session, being then a stranger to you all, I was actuated as I ever have been, and ever shall continue to be, by a sense of duty, and my devotion to my royal master, which is of itself sufficient to command the exertion of every power of my mind in his service—since that time a new and powerful stimulus to exertion has found a place in my breast,—I mean the attachment, the daily increasing attachment I feel, to the people of this happy land.—This sentiment is present with me wherever I go—it sweetens every official occupation, and as I set about my daily task of duty, it teaches me to ask myself this question— 1831.

"What can I do this day to promote the happiness and prosperity of Canada?"

On delivery of the concluding ejaculation, the members silently eyed each other and smiled, as well they might. His lordship's sentimental flourish was universally ridiculed as a piece of clap-trap. There was nothing remarkable in their address in answer. "We shall be happy"—they observed—"to find that our complaints are satisfactorily adjusted. Your excellency's devotion and sense of duty to your royal master, our beloved sovereign, and your attachment to the people of this province, formed on the knowledge which your excellency has acquired by a personal visit to almost every part of the province will, we trust, promote the successful result of your excellency's anxious wishes and earnest endeavours to secure the happiness and prosperity of Canada."

The assembly having, at its first sitting,

Chap. XXXI. 1831. voted, in the same terms as at the previous session (yeas 32, nays 20,) the re-expulsion of Mr. Christie, who had been unanimously re-elected by the constituency of Gaspé, proceeded to the revival of the standing committees named at the previous session including that of grievances, which accordingly went to work, resuming the enquiries where left off at the last prorogation. The governor, immediately after receiving the address in answer to his speech, laid before the assembly the document from the minister in reference to their complaints.* "In this communication"—he observed—"the house of assembly will not fail to trace the paternal feelings of his Majesty towards his faithful Canadian subjects, and his anxiety to comply with their reasonable desires." The assembly, by an humble address, thanked his excellency for "communicating to the house the despatch from lord viscount Goderich, bearing date the seventh of July last."

The following resolutions, in reference to the above, were adopted by the assembly and laid before his excellency by an address:—

"Resolved, That it is the opinion of this committee, that this house views with sentiments of gratitude the gracious expression of his Majesty's paternal regard for the welfare and happiness of his subjects in this province, and the proofs of a just and liberal policy towards them, contained in the despatch of his Majesty's principal secretary of state for the colonial department, dated the seventh day of July last, but particularly the acknowledgment that the regulation of the

* See Appendix B. to this volume.

internal affairs of the colony ought to be left exclusively to the local legislature. Chap. XXXI.

" Resolved, That it is the opinion of this committee, that this house sincerely participates in the feelings of kindness and good will manifested in the said despatch, and in the earnest desire to strengthen the bonds already subsisting between this colony and the parent state. 1831.

" Resolved, That it is the opinion of this committee, that this house will proceed with all due diligence and deliberation, to provide as far as depends upon it, remedies for the various matters of complaint contained in its humble petition on the state of the province, forwarded at the close of last session, and referred to in the said despatch.

" Resolved, That it is the opinion of this committee, that this house gratefully acknowledges the promptitude with which the petition to his Majesty was transmitted by his excellency the governor in chief, and the early and perspicuous manner in which the same was considered and answered by the right honorable lord Goderich, his Majesty's principal secretary of state for the colonial department.

" Resolved, That it is the opinion of this committee, that the first, second and third heads of the said despatch, relating to education, be referred to the standing committee on education and schools.

" Resolved, That it is the opinion of this committee, that the fifth head of the said despatch, relating to regulations of trade, be referred to the committee of trade.

" Resolved, That it is the opinion of this committee, that the sixth, seventh, eighth and ninth heads of the said despatch, relating to the courts of justice, and the state of the laws, be referred to the committee on the courts of justice.

" Resolved, That it is the opinion of this committee, that the eleventh head of the said despatch, relating to executive and judiciary officers, be referred to the committee of grievances.

" Resolved, That it is the opinion of this committee, that the twelfth head of the said despatch, relating to the responsibility and accountability of public officers, be referred to the committee of accounts.

" Resolved, That it is the opinion of this committee, that

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the said committees, severally, have power to report on the heads referred to them, by bill or otherwise.

"Resolved, That it is the opinion of this committee, that this house will not fail to give its early and most deliberate attention to the promised despatches on the most important subjects of the crown lands, and selection and constitution of the legislative council, whenever the said despatches shall be laid before this house.

"Resolved, That it is the opinion of this committee, that an humble address be presented to his excellency the governor in chief, with copies of the foregoing resolutions."

To the messengers who presented the above to his excellency, he answered—

"Gentlemen,—I receive with the most lively satisfaction this address of the house of assembly, and the copy of their resolutions with which it is accompanied. I will transmit these documents without delay to his Majesty's government, by whom, I confidently anticipate, it will be considered as a happy presage of the final adjustment of every point on which a difference has heretofore been found to exist between the executive government and the house of assembly."

He was, however, too sanguine in his expectations.

The governor, soon after the transmission of viscount Goderich's despatch as above, sent down another message stating, that in obedience to the commands of the king, conveyed in the despatch from viscount Goderich, dated 8th February, 1831, to which reference is made in the despatch of 7th July, 1831, recently communicated to the assembly, he desired to draw the attention of the house to the following important communication copied from the former, the object of which was to render the judges independent of the pleasure of the

crown, and to remove them from the executive, and (with the exception of the chief justice of Quebec,) from the legislative council of the province. The extract was as follows:—

"I now proceed to convey to your lordship the commands which it is his Majesty's pleasure to issue upon a full review of the general question of judiciary independence in his Canadian provinces.

"The connection which happily subsists between the Canadas and this kingdom, suggests the propriety of transferring to those provinces every institution which the more ample experience of Great Britain recommends, as calculated to promote at once the stability of government and ehe welfare of society at large.

"There is no branch of our civil polity which has been more fully proved to be conducive to these great ends, than the establishment of judges, independent at once of the royal authority, and of the popular branch of the legislature.

"There was not, I apprehend, any legal or constitutional reason which would have prevented the king from granting the offices of the judges of England during their good behaviour; but to render that principle immutable, it was necessary that parliament should prescribe the form of commission to be used on such occasions. Accordingly the statutes passed in the thirteenth year of the reign of William the third, and in the first year of George the third, have deprived the crown of all discretion on the subject.

"In conformity with these precedents, and in pursuance of the great principle on which they were founded, the king is graciously pleased to command that you do avail yourself of the earliest opportunity of proposing to the legislative council and assembly of Lower Canada, the enactment of a bill declaring that the commissions of all the judges of the supreme courts, shall be granted to endure their good behaviour, and not during the royal pleasure, and you will in the name, and in the behalf of his Majesty, assent to a bill for carrying that object into effect.

"It is of course an essential condition of this arrangement, that an adequate permanent provision should be made

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for the judges, and I am happy to find that the repeated assurances of the house of assembly preclude the possibility of any objection being made by that body to this part of the proposal.

"In the further pursuance of the general design of imparting to the Canadas the benefit of this important principle of the british constitution, I am to signify to your lordship his Majesty's commands to communicate to the legislative council and assembly, his Majesty's settled purpose to nominate on no future occasion a judge either as a member of the executive, or legislative council of the province. Whatever reliance might be placed on the personal integrity of the judge, it is desirable that they should be exempted from all temptation to interfere in political controversies, and even from a suspicion of any such interference.

"The single exception to this general rule will be, that the chief justice of Quebec, will be a member of the legislative council, in order that they may have the benefit of his assistance in framing laws of a permanent character; but his Majesty will not fail to recommend even to that high officer, a cautious abstinence from all proceedings by which he might be involved in any contention of a party nature. Your lordship will perceive that these rules are framed with reference to the correspondent practice in this kingdom, where, although it has not been unusual to elevate the chief justice, and other chief judges to the peerage, the puisne judges cannot vote in either house of parliament.

"I am persuaded that the council and assembly of Lower Canada will perceive, in the measures which I have thus had the honor of explaining, an additional proof of the desire, by which the king is, at all times, actuated to promote the best interests of that important part of the British Empire over the government of which your lordship presides.

A bill was accordingly introduced "to incapacitate the judges in this province from sitting and voting in the executive and legislative councils, and to secure the independence of the judges in this province."

The enquiry affecting Mr. justice Kerr was

resumed at the commencement of the session, by the committee of grievances, the result whereof will presently be noticed. The house addressed the governor, praying he would lay before it the proceedings he had taken upon its complaint against Mr. justice Fletcher. His excellency transmitted the correspondence that had taken place between his secretary and Mr. Fletcher, adding that the case did not appear to him to require further proceedings, and accordingly that no communication had been made by him to the government on the subject.

Subsequently to these communications, his excellency, by message, stated that—

"Having in the several communications to the legislature since the opening of the present session, put the house of assembly in possession of the liberal and paternal views of his Majesty's government regarding the affairs of the province, it becomes now his duty, in obedience to the commands of the king, for giving effect to those views, to recommend to the house the adoption of some specific measure which shall have the effect of rendering the judges equally independent of the crown, and of the popular branch of the legislature; and he is fully confident that in taking this important subject into consideration, the house in its liberality will be disposed to make suitable and permanent provision, chargeable upon a secure and adequate fund, as well for the salaries of the judges as for the establishment of a scale of retired allowances, in the event of their retirement from the bench after some prescribed term of faithful services, or in the event of bodily or mental capacity; and he trusts moreover, that an adequate provision will in like manner be made for the unavoidable expenses of travelling and other duties performed in the public service to which the judges are liable in the discharge of their public duties.

"The governor in chief takes this opportunity to apprize

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the house, that it will become his duty, in conformity with the instructions he has received from his Majesty's government, to recommend to the house in the course of the present session, to make provision, not subject to an annual vote, for certain other expenses of the civil government; but he is most anxious to see the question of the independence of the judges, and of a permanent provision for their salaries, retired allowances and incidental expenses, finally disposed of by a distinct and substantive enactment, before bringing the other, and comparatively less important measure, specifically under their consideration."

His excellency, by another message, transmitted at the same time, copy of the act recently passed by the imperial parliament, authorizing his Majesty to leave to the provincial legislature the appropriation of the duties in the province under the act of the 14th George the third, chapter 88, a measure that proved exceedingly embarrassing to the government, which too hastily divested itself of the funds it possessed towards the defrayal of justice and support of the civil government in the province, casting itself on the liberality of the assembly, of whose evasions on the subject it already had so many proofs.

After these communications had been made, it was resolved *nem con*, (30th December) that "the house would, on the 10th of January next, resolve itself into committee for the purpose of taking into consideration the composition of the legislative and executive councils of the province, and of considering whether it would not be expedient to pray for the thorough reform of the said councils, and what would be the best means of effecting the said object."

A call of the house was also ordered for that day. The assembly accordingly, on the day fixed went into committee, but asked leave to sit again. The subject was discussed, but the committee finally rose without reporting, so that for the session the subject was dropt.

The bill for the independence of the judges, (the objectionable character of which will be hereafter noticed) being passed by the assembly and sent to the legislative council, the governor deeming the way now clear, called by message upon the assembly for a civil list, the total amount whereof was fixed at £5,900, to cover the salaries of the governor and four other officials, viz:—the civil and provincial secretaries, with the attorney general and solicitor general.* This was referred to a committee

* "AYLMER, governor in chief.

"With reference to the concluding part of the message of the governor in chief to the house of assembly of the 5th of December last, he now communicates to the house a statement of several offices of the civil government, with the salaries attached to each, which his Majesty's government deem it expedient to be provided for by a legislative enactment, placing those heads of expense beyond the reach of an annual vote; and it is recommended that the term of such provision should be for the life of his Majesty, in conformity with the practice of the mother country.

"In reviewing the different heads of expense comprised in this limited scale, the house of assembly will not fail to observe that it has been framed with no view to extend the patronage of the crown; and that those officers alone have been included whose services are indispensable in carrying on the business of government.

"Neither (it may be presumed,) can any reasonable objection be urged against the principle of placing the salaries of those officers beyond the reach of an annual vote, more especially at the present time, when the popular branch of the legislature advancing each day in its knowledge of political science, and engaged in promoting the true object of all legislation, the public welfare, is naturally subject to those fluctuations of views and opinions inseparable from such a state of things.

"Finally, in submitting the accompanying statement to the con-

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of the whole house, which, after one sitting, rose without reporting. In other words, the proposed civil list was rejected! And thus ended all the efforts the government had made to obtain from the assembly of Lower Canada a constitutional civil list, a matter it had, since the call by Sir J. Sherbrooke on the assembly, in 1818, pursuant to its own spontaneous offer in 1810, to that effect, endeavoured to bring about, but from the attainment of which, after divesting itself by the "Howick Act," of the revenues possessed in Lower Canada for the support of the government and administration of justice therein, in the vain expectation that the assembly would make provision for those charges, the executive now were further removed than ever, by the absolute refusal of the assembly to make any permanent provision for the purpose.

The following message relating to the clergy

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sideration of the house of assembly, the governor in chief thinks it necessary to inform the house that the government of his Majesty having met their wishes in a spirit of the most perfect cordiality and good will, apparent in every line of the despatch of lord Goderich, of the 7th of July last, entertains a confident hope that the house of assembly will not be backward in exhibiting a corresponding spirit on the present occasion, thus evincing their desire to consolidate the tranquillity of the province.

"Castle of St. Lewis, Quebec, 21st Jan., 1832."

"PROPOSED CIVIL LIST.

| | |
|---|---|
| "The governor,..... | £4,500 |
| "The civil secretary to the governor,..... | 500 |
| "The provincial secretary,..... | 400 |
| "The attorney general,..... | 300 |
| "The solicitor general,..... | 200 |
| Total,.... | £5,900 |

"Castle of St. Lewis, 21st Jan., 1832.

"H. CRAIG, civil secretary."

reserves, was shortly after the above sent down :— Chap. XXXI.

1832.

" The governor in chief has received his Majesty's commands to make the following communication to the house of assembly, in reference to the lands which, in pursuance of the constitutional act of this province, have been set apart for the support and maintenance of a protestant clergy.

" The representations which have at different times been made to his Majesty and his royal predecessors, of the prejudice sustained by his faithful subjects in this province from the appropriation of the clergy reserves, have engaged his Majesty's most attentive consideration. His Majesty has, with no less anxiety considered how far such an appropriation of territory is conducive, either to the temporal welfare of the ministers of religion in this province, or to their spiritual influence. Bound no less by his personal feelings, than by the sacred obligations of that station to which providence has called him, to watch over the interests of all protestant churches within his dominions, his Majesty could never consent to abandon those interests with a view to any objects of a temporary and apparent expediency.

" It has therefore been with peculiar satisfaction that in the result of his inquiries into this subject, his Majesty has found that the changes sought for by so large a proportion of the inhabitants of this province, may be carried into effect without sacrificing the just claims of the established churches of England and Scotland. The waste lands which have been set apart as a provision for the clergy of those venerable bodies, have hitherto yielded no disposable revenue. The period at which they might reasonably be expected to become more productive is still remote. His Majesty has solid grounds for entertaining the hope, that before the arrival of that period it may be found practicable to afford the clergy of those churches such a reasonable and moderate provision as may be necessary for enabling them properly to discharge their sacred function.

" His Majesty, therefore, invites the house of assembly of Lower Canada, to consider how the powers given to the provincial legislature by the constitutional act, to vary or repeal this part of its provisions, can be called into exercise

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most advantageously for the spiritual and temporal interests of his Majesty's faithful subjects in this province."

The message was taken into consideration and a resolution adopted, that it was expedient to repeal so much of the act of the 31st Geo. III., chap. 31, as related to reserves of land for a protestant clergy within the province, and a bill was accordingly introduced, but fell through.

The estimate for the year was not sent down until the 27th January, the session being far advanced and drawing to a close. The sum called for was £67,357 sterling, but only £58,095 were voted, and passed in the bill of supply. The salary (£1,500) of the lieut. governor Sir Francis Burton, then in England, and on his death-bed, was refused, as well as that of Mr. Stuart, the attorney general, who, as already mentioned, had gone to England to vindicate himself against the accusations of the assembly.*

The house took up the Canada Tenures Act, and passing several resolutions on the subject,†

* The gross amount of revenue for the three quarters ending on the 10th October, 1831; was £182,460 currency, the proportion of which to Upper Canada was £36,728.

† "Resolved, That by the laws of Canada, guaranteed to the inhabitants of this province, by the capitulation of 1760, the act of the british parliament, of the fourteenth George the third, chapter 83, and the constitutional act of the thirty-first, George the third, chapter 31, they had a right to grants of sufficient portions of wild lands held from the crown *à titre de fief*, subject to the customary dues, and on condition of cultivation and residence.

"Resolved, That the commutation of these lands into the tenure of free and common soccage, under the act passed in the parliament of the United Kingdom, in the sixth year of the reign of his Majesty George the fourth, chapter fifty-nine, deprives them of this

introduced a bill to modify it, intituled, " A bill to repeal so much of two certain acts therein-mentioned, made and passed in the parliament of the United Kingdom of Great Britain and Ireland, as authorises the commutation of the tenure of lands held *à tître de fief* and *à tître de cens* in this province, into the tenure of free and common soccage." The bill failing in the legislative council, an address was voted to the governor, and sent up with a copy of the resolutions, " praying his excellency would be pleased to take the same into favorable consideration, and that until such repeal is effected, he would give directions to the law officers of the crown, to support in all cases where a commutation of tenure of *seigneurie* is prayed for, the right of all his Majesty's subjects in this province to obtain concessions of waste lands in the seigniories, at the accustomed rates and dues, on condition of actual settlement, and oppose under the first and seventh clauses of



right, and vests the said lands in the seignior, to dispose of them on such terms and conditions as he thinks fit, at the same time subjecting those who may settle thereon, to laws with which the great majority of the people of the province are unacquainted, utterly unsuitable to their circumstances, and repugnant to their feelings and usages.

" Resolved, That the provisions of the said law for the said commutation, are unjust, and contrary to the established rights of the inhabitants of this province, to the extension of settlement, and to the general prosperity.

" Resolved, That it is expedient to repeal so much of the acts passed in the parliament of the United Kingdom, of the third George the fourth, chapter 119, and sixth George the fourth, chapter 59, as provides for the commutation of lands held *à tître de fief* and *à tître de cens* in this province, to be held in free and common soccage, subject to the laws of England."

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the act 6th Geo. IV. ch. 59, the making of any fresh grant of such lands, unless the said rights be maintained and reserved, and that without such condition no fresh grants of such waste lands be made."

To this his excellency answered by message, "expressing his regret that the interval of time between the presentation of the address and the close of the session, was too limited to enable him to give to the subject of it the degree of consideration necessary to enable him to come to a decision on a question of so much importance." He requested "the house to be assured that he would continue to give to the subject of their address his best consideration, with every desire to comply with their wishes, in as far as the provisions of existing statutes would authorize him to do." The answer of the earl of Dalhousie to a similar application has been noticed.

On the first of February, his excellency laid before the house copy of a despatch he had received from viscount Goderich, relating to that part of the petition of the assembly to the king, which touched upon the disposal of the waste lands of the crown.*

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* "Downing Street, 21st November, 1831.

"My lord—In my despatch of the 7th of July last, number fifty-one, in which I adverted to the various complaints contained in the petition addressed to his Majesty by the assembly of Lower Canada, I informed you that I would make what is there termed "the vicious and improvident management of the crown lands," the subject of a separate communication. In proceeding to do so, I will in the first place consider separately, what I believe to be the most prominent of the particular grievances, which the assembly intended to comprehend under the general head, these, are, first—the difficulties in

The quorum, as at the previous session was, towards the conclusion of the present reduced

the acquisition of land under a secure title, encountered by the bonâ fide settler.

" 2nd. The abuse by which large tracts of land have come into the possession of persons unable or unwilling to improve them, and have in consequence been rendered useless in the province and injurious to the real settlers, by separating them from each other and interrupting their communications ; and 3d., the similar inconvenience which has arisen from the clergy reverves.

" Upon each of these subjects I shall proceed to offer some remarks in the order in which I have mentioned them. Difficulties are, I believe, at present met with by the bonâ fide settler in acquiring land under a secure title, in consequence of the forms of conveyance now in use, which seem calculated to cause needless delay and expense. I entirely concur with the assembly in thinking that this is an inconvenience, which ought immediately to be got rid of. I have had under my consideration the best means for doing so, and I trust, if the measure I shall propose, in a subsequent part of this despatch, is adopted by the assembly, I shall be able without delay to furnish you with instructions by which this important improvement may effectually be accomplished. The complaint, however, which I am now considering, seems to relate not only to the delay experienced in obtaining patents for land, and to the fees which are charged upon them, but, also, to the practice which has of late years been introduced of selling the crown lands instead of parting with them gratuitously. In recapitulating, at the end of their petition, the principal grievances of which they complain, the assembly particularly advert to " the management of the waste lands of the crown ; in consequence of which, applicants for actual occupation are prevented from freely possessing the same under secure titles, in sufficient quantities for cultivation, without unnecessary delay, and without any expenses or burthen, other than the fair and necessary costs of survey and title." I must dissent from the view here taken by the assembly, and I am persuaded that a more careful consideration of this subject would have led to a conviction that to restrain in some degree the extreme facility of acquiring land, by demanding a moderate price from all who are anxious to obtain it, instead of being injurious to the interests of those who desire to become settlers on the crown lands, would be found calculated to promote their success no less than the welfare and prosperity of the province at large.

" It has been urged that to compel the bonâ fide settler to pay for his land any thing beyond the necessary expense of surveying it and marking out the limits, is to deprive him of a portion of his capital, which, if allowed to retain it, he might employ to great advantage. Plausible as this objection is, experience has demonstrated that by yielding to it and by making free grants, much more inconvenience is incurred, than can arise from this defect in the system of sale. If no consideration is to be given in return for land, all persons will be desirous to obtain it, and that too, in quantities not limited by their

Chap. XXXI. to thirty members. The committee of grievances having made a report against Mr. justice

1832. ability to turn it to advantage. Either, therefore, land must be lavished in a manner which will quickly leave none unappropriated, and open for the occupation of those who can really make use of it, or a power must be entrusted to the executive government of deciding what claims are to be admitted, and what rejected. To such a power being placed in any hands, there are the strongest objections, it gives a species of patronage to its possessors almost without responsibility, since its due exercise is with difficulty to be distinguished from its abuse, and the latter, therefore, is as easy as it may prove to be dangerous. The same difficulty of judging of the manner of exercising a discretion of this sort, which, in bad hands, facilitates its abuse, also exposes to suspicion even the most perfect impartiality and fairness; whether, therefore, the power of abuse which it confers is considered, or the unmerited obloquy which it may occasion, it is most inconvenient that the government should be called upon to undertake the task of the gratuitous distribution of land. It is likewise found practically that under the system I am now considering, no degree of caution is sufficient to prevent large tracts of land from getting into the possession of persons whose object is not to improve it, but at a future day to dispose of it when it shall have acquired an increased value from the settlement and improvement of the vicinity, the effect of this being to enable the idle or fraudulent proprietor not only to put his more industrious neighbours to great inconvenience, but also to derive a profit from their exertions, to which he has in justice not the slightest claim.

"As far as I am acquainted with the history of new settlements, there is no instance in which the practice of making free grants has been followed without leading to the abuse I have described. Various regulations have been adopted with a view of guarding against it, but these though complicated and otherwise inconvenient, have uniformly failed to accomplish their intended object. It has been supposed that it would be a simple mode of obtaining the end in view, to prevent any individual from acquiring more than a certain fixed extent of land, imposing upon him at the same time the condition of improving it; the difficulty, however, of defining before-hand what this improvement is to be, immediately occurs, no general rule can be laid down applicable alike to all situations, and without such a rule it is impossible to avoid either, on the one hand permitting the condition to become a dead-letter, or on the other giving rise to endless disputes and litigation. Again, the effect of the limitation upon the quantity of land to be acquired by a single individual is liable to be defeated, as those who have money will prevail upon their poorer neighbours to allow them to make use of their names in order to obtain more extensive grants than the regulations would permit. If to guard against this the transfer of land is prevented, persons able and willing to improve their land are unable to obtain from those who are not so, what in their hands is useless; besides that improvement is greatly discouraged, and the spirit of enterprize injuriously

Kerr, the same was taken into consideration by a committee of the whole, who reported a

checked by preventing the conversion into money of the increased value which the industry of a settler has given to his grant. Another plan is to allow to every settler a grant proportioned to the amount of his capital, and to require from him before he is permitted to alienate it, that a certain sum should be expended in its improvement. This is the principle of the regulations lately in force, in the Australian colonies, but notwithstanding the care with which they were drawn up, in practice they have not been found to answer.

"It is not necessary that I should do more than thus generally point out the objections of a system of free grants, since experience has not only shewn these objections to be well founded, but has further proved the advantage of the opposite plan, of disposing of land by sale instead of by grant.

"The example of the United States has shewn, that without any of the complicated regulations by which it has been attempted to guard against the misapplication of land acquired gratuitously; without those conditions and restraints which have been equally inoperative in the prevention of fraud and inconvenient to the bonâ fide settler, we may safely trust to the interest of purchasers as a sufficient security that land which has been paid for will be turned to good account.

"It has been said that by a strict adherence to this system, by refusing land to the poor man whose labour is his only wealth, a most useful class of settlers will be discouraged. I see no ground for such an apprehension; whatever promotes the prosperity of the colony will naturally attract settlers both of the labouring and of all other classes; nor do I see any reason to suppose that the former will consider it any hardship to be required to pay for the land which they acquire, whilst its price is moderate, and while wages are so high as to enable them, if industrious, to earn in no long period the means of purchasing it. Has it on the other hand been sufficiently considered by those who make that objection, whether it would conduce to the real prosperity of the province, to encourage every man who can labour to do so only on his own account, to obtain and cultivate his allotment of land without giving or receiving assistance from others? Without some division of labour, without a class of persons willing to work for wages, how can society be prevented from falling into a state of almost primitive rudeness, and how are the comforts and refinements of civilized life to be preserved?—Declining, however, to proceed any further in the discussion of this question, I must observe, that the price paid by the settler for his land is not in fact lost to him, it is applied in diminishing the burthen of taxation, by defraying part of the necessary expenses of the government, and it will also, it is to be hoped, afford the means of opening roads, of erecting schools and churches, and of making other local improvements. Indeed, for one of these purposes, more particularly for the opening of roads, I think there would be considerable advantage in demanding a higher price for land, than is now usually paid. Upon the principle that a public object is always better and more certainly

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series of resolutions against him,* and an address in conformity with them was drawn up

effected by enlisting in its favour the individual interests of those by whose efforts it is to be accomplished, than by requiring their services by a mandatory law, it would seem an obvious improvement in the mode of disposing of waste lands, to sell it at a higher price than heretofore, free from all conditions, allowing the settlers again to earn a part of the price by their labor in effecting those improvements which are now required from them in discharge of the obligation they incur by the acquisition of their land. The object of this would be, that instead of paying before hand in land for work which may never be done, it would be paid for when actually performed in money previously received in exchange for the same land; the industrious settler would therefore lose nothing, whilst those who chose to be idle would be prevented from injuring any but themselves.

"2nd. What I have now stated will sufficiently explain to you the manner in which, with respect to the still unalienated estate of the crown, I think the above abuse complained of, the acquisition of land by persons unable or unwilling to improve it, may be guarded against. I am, however, aware, that large grants already made in some parts of the province, remain in a state in which they greatly retard and impede the improvement of the surrounding country. I can only direct you by a strict enforcement of the existing law to endeavour to correct the evil, and if any further legislative measures should be found to be necessary for that purpose, to call the attention of the assembly to the subject; perhaps a small tax levied upon all unimproved land would be the most effectual remedy, it would make it the interest of the holders either to clear it themselves or to part with it to those who would.

3rd. With respect to the clergy reserves, I have no hesitation whatever in stating that I entirely concur with the assembly in thinking that they form a great obstacle to the improvement and settlement of the province, without being productive of any corresponding advantage to make up for this inconvenience. During the forty years the system of making these reserves has existed, the total amount of the income they have afforded has not equalled the expense incurred in their management. I find by a report made by Sir James Kempt, that in the year 1827, the expenses of collection and management exceeded the proceeds by £58 3s. 6d., that in 1828 and 1829, the first years in which there has been any surplus, the net proceeds were £177 15s. 6d. in the one, and £217 18s. 0d., in the other. For the year 1830, I have no account of the sums actually received, but, although I find that out of the half million of acres at which the reserves in Lower Canada are estimated, nearly 100,000 are under lease at a nominal rent of £1190 0s. 0d., judging from the example of former years, I should not anticipate that the clear income which has been obtained, has been greatly improved. There seems, indeed, every reason to believe, from what has been expe-

* See end of this chapter.

and presented to the governor, together with copies of all the evidence taken before the



rienced not only in Canada, but in the Australian colonies, that land in countries where so much remains unappropriated can only be profitably occupied by those who have the stimulus of personal and permanent interest. Hence the income derived from landed property retained in the hands of government for any public purpose is trifling, compared to the inconvenience it occasions; the same sum raised in almost any other mannre would be much less burthensome to the colony.

"Under these circumstances I cannot entertain a doubt, that an end should immediately be put to the system of reserving a seventh of the waste lands of Canada for the support of a protestant clergy; that which would be an objectionable mode of raising a revenue for any public purpose, is still more strongly to be condemned as a provision for the ministers of religion; since it must have a direct tendency to render odious to the inhabitants, those to whom their good will and affection are so peculiarly needful. Such are the reasons which have led me to the conclusion that the continuance of the present system is inexpedient, and in a separate despatch, I have detailed the measures it will be necessary to adopt for the purpose of causing these reserves to revert into the general mass of the crown estate, when they will be managed by the same officers, and according to the same rules.

"In the preceding part of this despatch, I have in a great measure anticipated what I have to say in explanation of the principles on which I conceive these rules should be founded. I have, therefore, little to add beyond a recapitulation of the points to which it is of most importance to allude. In the first place the form of the instrument by which land is granted, should be as simple, and its expense as small as possible; the adoption of a mode of conveyance answering this description has been hitherto prevented, chiefly by the necessity, under the act of parliament, of specifying in each grant of crown lands, the particular reserve made in respect of it for the support of the clergy. The removal of this difficulty will be one of the most beneficial results which I anticipate from the measure, which, in the despatch already referred to, I have directed you to propose to the legislature; as soon as the legal difficulty is thus got rid of I will transmit to you detailed instructions, (which are already in a state of preparation) as to the manner in which the desired improvement may be effected.

"The transfer of land from hand to hand, should be left perfectly free and unrestricted; all persons should be permitted to acquire land in any quantity and for any purpose they may think fit. The abuse of this privilege being guarded against by demanding a moderate price for all land alienated by the crown. This will likewise supercede the necessity of inserting in grants, conditions as to making roads and other improvements. Instead of exacting the performance of what are termed the duties of settlement, land may be sold free of all conditions whatever, and a portion of the price obtained, applied in doing what was formerly required of the settler.

"3d. In order to guard the government against even the suspicion

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several special committees, relating to that gentleman, the whole house going up to the castle on the occasion, to present the address. To the address of the house he answered:—

"Gentlemen of the house of assembly,—It is no less the interest than it is the manifest and bounden duty of the executive government of this province, to maintain therein the administration of justice in all its purity.

"It will be my duty to communicate to his Majesty's government the opinion of the house of assembly that the two offices of judge of the court of king's bench and of judge surrogate of the court of vice-admiralty are incompatible in the same person, and ought to be held and filled by two several persons.

"In the course of the last session, an address was presented to me by the house of assembly, praying that I would suspend from the exercise of his functions one of the great law officers of the crown, until the pleasure of his Majesty should be known regarding a petition from the house praying for his dismissal from office.

"After due deliberation I complied with the wish of the house, and ever since that time the reflections of each suc-

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of partiality in the distribution of land, the utmost freedom of competition should be permitted; and the highest bidder, or the first applicant, should be entitled, as a matter of course, to a preference. The regulations best calculated for securing this object, must be left to you to determine.

"Such is the system of management which I propose to adopt with respect to the crown lands; it has been formed after no small consideration and inquiry into a subject of the utmost importance to the prosperity of a country circumstanced like Canada. To promote that prosperity, to adopt the measure best calculated to favour the developement of the natural resources of the province, has, I trust, I need not assure the assembly, been my only aim.

"If, however, upon a full consideration of the reasoning upon which my views are founded, they can recommend any modification by which this plan can be rendered more likely to forward that which is our common object, any suggestions which they may have to offer shall receive the fullest and most attentive consideration.

"I have the honor to be, my lord,

"Your lordship's most obedient humble servant,

(Signed) "GODERICH."

"A true copy. H. CRAIG, civil secretary."

ceeding day have but served to establish more firmly in my mind the conviction of the expediency and justice of the course adopted by me on that occasion. Chap. XXXI. 1832.

"The present case, however, differs essentially from that to which I have just alluded, for the party whose suspension is now prayed for, is a public officer, the tenure of whose office is at this moment undergoing a material and most important change, and should the bill now in progress for securing the independence of the judges pass into a law, he will no longer be subject, as the judges of this province have heretofore been, to the pleasure of the crown.

"Moreover, since it has been officially noticed to the legislative council and the house of assembly, that his Majesty's government is disposed to concur in the necessary measures for rendering the judges independent of the pleasure of the crown, it becomes my duty as the king's representative, to consider those public officers in the light in which his Majesty, in accordance with the views of the legislative council, and the house of assembly, is desirous of seeing them placed.

"Therefore, taking into consideration the peculiar features of this case as just represented, I find myself under the necessity of declining to suspend Mr. justice Kerr from the exercise of his functions, until the end of the next session of the provincial parliament, upon the single address of the house of assembly; nevertheless, being at all times perfectly disposed, as far as my sense of duty will permit, to meet the wishes of the house, and with the view of conforming on the present occasion as nearly as circumstances will permit, to the provisions of the act for securing the independence of the judges, now awaiting the royal sanction, I shall be prepared to suspend Mr. justice Kerr, from the exercise of his functions until his Majesty's pleasure is known, upon receiving a joint address to that effect from the legislative council and the house of assembly."*

* Mr. Stuart, who was then in England defending himself against the accusations of the assembly, addressed the following letter in reference to the above, to lord viscount Goderich, the colonial minister:—

"London, 30 George street,
"Hanover square, 20th March, 1832.

"My lord,—I beg leave to bring under your lordship's notice, part

Chap. XXXI. 1832.

His excellency, a very short time before the prorogation, sent down a message, stating that "In obedience to the instructions of his Majesy's government, received yesterday, (23d Feby.) the governor in chief recommends to the house of assembly the expediency of

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of an answer which, it appears, was lately given by his excellency lord Aylmer, governor in chief of Lower Canada, to an address of the assembly of that province, praying for the suspension Mr. justice Kerr, from the office of one of the judges of his Majesty's court of king's bench, for the district of Quebec. The part of his excellency's answer, to which your lordship's attention is respectfully solicited, and which has occasioned, to me, both surprise and pain, is expressed in the following words:—"In the course of the last session, an address was presented to me, by the house of assembly, praying that I would suspend, from the exercise of his functions, one of the great law officers of the crown, until the pleasure of his Majesty should be known, regarding a petition from the house, praying for his dismissal from office. After due deliberation, I complied with the wish of the house; and, since that time, the reflections of each succeeding day, have but served to establish more firmly, in my mind, the conviction of the expediency and justice of the course adopted by me on that occasion."

It is evident that his excellency, in adverting to the suspension of "one of the great law officers of the crown," on an address of the assembly, means to refer to my suspension from the office of his Majesty's attorney general, under his excellency's order of the 28th March last. Having had the honor of submitting to your lordship's consideration, by my memorial of the 18th April last, the grounds of complaint which, it appears to me, under the circumstances of the case, had been afforded, by that exercise of power, on the part of his excellency; I have since, in all humility, waited the signification of your lordship's decision on the subject, and have remained under the persuasion that, when deemed fit by your lordship, it will be communicated to me. In the mean time, and until your lordship's decision might be given, I had reason, I think, to expect that his excellency lord Aylmer, would have abstained from the mention of my suspension, in the terms used by his excellency, in his answer above mentioned; from which, proceeding from so high an authority within the colony, inferences to my prejudice, may, and there is reason to believe, will be drawn.

"It is the more painful to me, that such language should have been used by his excellency, after the lapse of nearly a year from his order of suspension,—after the facts of the case must have become more accurately known to him,—and while the subject of complaint occasioned by that measure, is still under your lordship's consideration; as my endeavours, at great loss and expense, to obtain a determination on the charges of the assembly, which are now in train of investigation, have been unremitting; and I cannot but humbly entertain the hope, that the circumstance, now brought under your lordship's

imposing a tax, payable by the masters of vessels bringing emigrants into this colony from the United Kingdom, for the purpose of creating a fund for the medical care of sick emigrants, and for enabling indigent persons of that description to proceed to the places of their destination.

"The governor in chief is also directed to recommend that this tax should not exceed one dollar per head on each emigrant arriving in the colony, and that it should be doubled in respect to those who shall have been embarked without the sanction of government, signified by a certificate from one of the officers of customs at the port of clearance."

A bill was passed in accordance with the above, afterwards the subject of much undue opprobrium from Upper Canada, as a tax prejudicial to the influx of british immigrants, and consequently, it was said, to the prejudice of that province.

A bill had been passed and sent up to the legislative council, for appointing Mr. Viger agent in England, for prosecuting the complaints of the assembly against Mr. Stuart. This was thrown out by that branch, but in

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notice, may have some influence, in hastening the affair to a conclusion.

"I have the honor to be, with the greatest respect, my lord, your lordship's most obedient humble servant,

(Signed) "J. STUART."

"Right hon. lord viscount GODERICH, &c., &c., &c.

ANSWER.

"Downing street, 3d April, 1832.

"Sir,—I have received the directions of lord viscount Goderich to acknowledge the receipt of your letter of the 29th ulto., on the subject of the address which the governor general of Lower Canada is reported in the Montreal Gazette newspaper, of the 23d February last, to have made to the assembly of that province. If reliance may be placed on the accuracy of this report, lord Goderich does not scruple to avow his opinion, that it was ill-advised; and I am to acquaint you that his lordship has communicated that opinion to lord Aylmer.

"I am, sir, your most obedient humble servant,

(Signed) "HOWICK."

"JAMES STUART, esquire."

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order to cover the contingency, it was resolved by the assembly—

"That in the event of the bill sent up by the house to the legislative council, on the twenty-fourth January last, appointing the honorable Denis Benjamin Viger, agent for this province, not becoming a law, it is expedient that the said Denis Benjamin Viger, now in England, continue therein for the present year, to represent to his Majesty's government, the interests and sentiments of the inhabitants of this province, and support the petitions of this house to his Majesty and both houses of parliament.

"That it is expedient that the necessary and unavoidable disbursements of the said Denis Benjamin Viger, for the purposes aforesaid, not exceeding fifteen hundred pounds, be advanced and paid him, or his order, by the clerk of this house, out of the contingent fund thereof, till such time as the said disbursements can otherwise be provided for."

And to give Mr. Stuart the "*coup de grace*," it was—

"Resolved, That this house doth fully persist in the accusations brought in the last session of the provincial parliament against James Stuart, esquire, his Majesty's attorney general in this province; and also that this house doth persist in its humble petition to his Majesty, praying him to remove the said functionary from his said office, and to grant him hereafter no office of trust in this province."

Mr. Fletcher had, as mentioned, been released by the governor from further enquiry on the accusations of the assembly; but a new petiagainst him by divers inhabitants of the district of St. Francis, complaining of malversation in office, being presented, the subject was again referred to a committee of inquiry. In their report, they stated that they deemed it incumbent on them to submit as their delibe-

rate opinion, founded on the evidence of record, that it was inconsistent with the interests and incompatible with the security of the king's subjects in the inferior district of St. Francis, that the said judge should continue to preside in the courts in that district. The prorogation immediately ensuing, prevented further steps. Chap. XXXI. 1832.

Mr. Ph. Panet, a member of the assembly, was, in the course of the present session, advanced to a seat in the executive council, and the custom of transmitting messages from the governor to the assembly by his excellency's secretary, was, upon his appointment discontinued, these being now brought down and delivered by Mr. P., as an executive councillor, who also, it was understood, was to be, in the house, the organ of the executive when explanation should be needed. This arrangement was, for the present, rather satisfactory than otherwise to the assembly, though subsequently, as will be observed, it seems to have changed its views.

Large sums were in this, as in the previous sessions, voted for education, and a bill also was passed, appropriating the revenues of the jesuits' estates, for the purposes of education exclusively, concerning which, as we have seen, so much interest was taken by the several assemblies.

In answer to an address of the assembly, praying the governor would submit to the consideration of his Majesty's government in the United Kingdom, the necessity of placing the post-office department in this province under

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the controul of the legislature, and of directing the officer at the head of the department, to furnish every information that might be required of him respecting the receipts and expenditure, and of all other matters connected with the establishment, his excellency said he would take the earliest apportunity of submitting the subject, as requested by the house.

The governor prorogued the legislature, on the 25th February, sanctioning at the same time, sixty-three bills, reserving nine for his Majesty's pleasure, including that of supply for the present year (1832,) as also that "for incapacitating the judges from sitting and voting in the executive and legislative councils, to secure the independence of the judges and for other purposes."

A better idea of the result of the session, cannot be given than lord Aylmer's speech in proroguing it, conveys:—

"Gentlemen of the house of assembly,—In his Majesty's name I thank you for the liberal appropriation of the sum of ten thousand pounds towards giving effect to the provisions of the bill passed this session for the establishment of boards of health within this province, and to enforce an effectual system of quarantine; and if circumstances should unfortunately render it necessary to create and to support extensive establishments for this purpose, it shall be my earnest endeavour to expend with economy the pecuniary means which your liberality has placed at the disposal of the executive government.

"The present session commenced under such favourable auspices, as to inspire me with confident hopes of its termination in a manner calculated to justify in their fullest extent the favourable anticipations of his Majesty's government.

"The despatch of viscount Goderich of the 7th of July last, has been communicated to the house of assembly, and its contents not only were found to meet the various objects of complaint embraced in the petition of the house to which it is an answer, in the fullest and most explicit manner, but the concessions on the part of the crown were such as to surpass the most sanguine expectations of the people of Lower Canada.

"It was natural to expect, therefore, that the civil list proposed for adoption, as the only advantage sought for in return for these liberal concessions, would have been met by the house of assembly in a corresponding spirit.

"The votes and resolutions of the house of assembly on former occasions, still further justified this expectation on the part of the executive government, and even had any doubt arisen on the subject, it must have been removed by recent occurrences which plainly shew that in certain cases the house may be induced to lend a willing ear to proposals for placing the salaries beyond the hazard of an annual vote.

"These expectations have, nevertheless, been disappointed, and that too under circumstances peculiarly discouraging; for the executive government on approaching the house of assembly with the proposal for a civil list, upon a scale so moderate as to excite universal surprise, has been met at the very threshold of the door by a flat and unqualified denial.

"In England, at the commencement of each reign, a civil list is invariably voted by the legislature, securing fixed and stated salaries and allowances connected with the dignity and service of the state, during the life of the sovereign, and yet such a proceeding has never been opposed in principle by the most zealous supporters of the rights of the people, nor is it considered as an indication on the part of the crown of any distrust in the popular branch of the legislature.

"It was reasonable and consistent, therefore, to suppose that the same principle might be adopted and acted upon with advantage in this colony, the analogy of whose constitution to that of the mother country, is so remarkably conspicuous.

"The advances of his Majesty's government having been

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met by the house of assembly in the manner I have just described, I now find myself under the necessity, (in obedience to the instructions I have received,) of reserving the bill of supply voted for the services of the current year, for the signification of his Majesty's pleasure.

"The embarrassments resulting from this course of proceeding must of necessity be considerable, but it shall be my anxious study to cause them to be as little felt by the province, as the circumstances of the case will permit.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—Amongst the many important measures adopted during this session, all of which are more or less calculated to promote the interests of the province, I have great satisfaction in noticing the bill for establishing the independence of the judges. I think it necessary at the same time to inform you, that although the principle of this bill coincides altogether with the views of his Majesty's government, it contains one or two provisions which impose upon me the necessity of reserving it for the signification of his Majesty's pleasure.

"The passing of the bill for securing the independence of the judges may be considered as the first practical effect of the despatch of viscount Goderich, of the 7th of July, but the concessions contained in that memorable despatch are pregnant with still further advantages, which it will require more than one session to bring to maturity. These concessions have placed beyond the reach of all cavil and dispute, the beneficent dispositions of his Majesty's government towards this colony; and the people of Canada may now confidently look forward to years of increasing prosperity under a monarch whose mild and gentle sway is felt only through the benefits it confers; whilst the connexion with the mother country is known only to the province, by the security it enjoys under the shelter of her protecting shield."

By a census of the population taken last year, in Lower Canada, returns whereof were laid before the assembly at the late session, it amounted to 504,598. Returns to the legis-

lature of Upper Canada, of the population of that province, established it at 235,064.*

The legislative council committed during the late session, Messrs. Duvernay and Tracey, editors, the former of *La Minerve*, and the latter of *The Vindicator*, two newspapers published at Montreal, for reflections offensive to that body, in their respective papers, a high-handed measure, and deemed at the time rather injurious, in public opinion, to the council, than a judicious vindication of its integrity

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* Total returns from the District of Montreal,..... 270,149
Do. do. do. of Quebec,..... 151,167
Do. do. do. of Three Rivers,..... 56,279
Do. do. do. of Gaspé,..... 5,003

482,598

To this add for the seigniory of Beauharnois, from which no return has been made,..... 5,000
Do. do. for county of Stanstead,..... 12,000
Do. do. for county of Bonaventure,..† 5,000

22,000

Population of Lower Canada,.... 504,598

By returns made to the provincial legislature of Upper Canada, now in session, the following population is given for that province:—

District of Gore,.....23,552
Do. Home,.....32,871
Do. Western,..... 9,970
Do. Niagara,.....21,974
Do. London,.....26,180
Do. Newcastle,.....16,498
Do. Midland,.....36,322
Do. Ottawa,..... 4,456
Do. Bathurst,.....20,112
Do. Eastern.....21,168
Do. Johnstown,.....21,961

Population of Upper Canada, 235,064

Population of Canada,..... 739,662

† This was considerably under-rated.

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and privileges.* The editors made application to the court of king's bench at Quebec for enlargement by habeas corpus, but the judges on a hearing of the case, not deeming themselves possessed of the power to release, remanded them to prison, where they remained until the prorogation upon which they were enlarged.

The chief justice Sewell was, at this time, the only one of the judges who retained a seat in the legislative council, of which he was the speaker, a circumstance of which those gentlemen laid hold, representing in petitions which, while in prison, they caused to be presented to the assembly on the subject, that they were, by reason of his occupying a seat in the legislative council, deprived of the benefit of his opinion on the bench, as a judge, and of relief from the oppression to which they were subjected by order of the legislative council. It was stated in one of those petitions, that "the petitioner, in common with the inha-

* The legislative council were divided on this matter, the following protest being entered against it:—

"Because—As the legislative council has never yet exercised the power of arrest, we cannot consider the present occasion as justifying the first resort to a measure of so decided a character, whose effects must be to bring into notice and possible importance opinions and persons otherwise contemptible and insignificant.

"Because—The publications in question being libellous are obnoxious to prosecution before the ordinary tribunals of the country."

(Signed) "John Caldwell,
"William B. Felton,
"M. Bell."

Messrs. Hale, Coffin, and Hatt, also dissented from the motions for the apprehension of Messrs. Duvernay and Tracey, but without assigning reasons, and Mr. Ryland for reasons which he stated at great length.

bitants of this province, had cause to complain that the said chief justice Jonathan Sewell, should hold a situation incompatible, as is evident in the petitioner's case, with the administration of justice, for the discharge of which the said chief justice is paid an ample and sufficient salary." The other expressed the petitioner's want of confidence in the tribunal to which he had applied for relief, "arising from the fact that all the members thereof are also members of the legislative council, (it being only very lately that they have refrained from sitting thereat) and that they sit daily in the said Court, in a subordinate capacity to the chief justice, who, as speaker of the said council, was the organ by which the unjust condemnation of the petitioner was pronounced; circumstances"—it was added—"which even without supposing the possibility of a deliberate denial of justice may be supposed to influence the decision of the said honorable judges, or to induce them to delay it to the great damage of the petitioner."



The legislative council had, in fact, long since been declining in the public estimation, and was by this time nearly sunk. It had nothing aristocratic in its composition, nor were its members generally of the character or standing, to elevate the body in the confidence and esteem of the country.

* The following are the resolutions of the assembly relative to Mr. justice Kerr, referred to in page 378, as taken from the journals of the house of assembly:—

"Resolved, That it is the opinion of this committee, that the offices of judge of the court of king's bench, and of judge of the court of vice-admiralty, are incompatible in the same person, and that they ought to be held and filled by two several persons.

"Resolved, That it is the opinion of this committee, that the union of the said offices in the person of the honorable James Kerr, has produced great inconvenience, and has greatly impeded the due administration of justice in this province.

"Resolved, That it is the opinion of this committee, that by the evidence on the subject of the complaint made by the petitioner Bartholomew Conrad Augustus Gugy, esquire, against the said James Kerr, received between the year 1828, and the present time, by the several committees appointed by this house to enquire concerning the allegations contained in the said petition, it appears that the said James Kerr is guilty of high crimes and misdemeanors, as a judge of the court of king's bench for the district of Quebec, and as judge surrogate of the court of vice-admiralty in this province.

"Resolved, That it is the opinion of this committee, that the said honorable James Kerr, has not the knowledge of the laws of this country necessary to enable him to administer them with honor to himself and advantage to the public, and in the manner which accords with the importance of his judicial functions; and that his incapacity in this respect being fully recognized, is sufficient to disqualify him for holding office as a judge in this province.

"Resolved, That it is the opinion of this committee, that the said James Kerr is also guilty of forgetfulness of his duty, and of malversation in the exercise of his said judicial functions, having refused his ministry on several occasions, and having arrested the due course of the law.

"Resolved, That it is the opinion of this committee, that the said James Kerr is also guilty of acting partially and unjustly in his judicial capacity; that he has intentionally and avowedly substituted his own will for the rules of law; that

he has decided in direct opposition to the law; that he has given contradictory judgments in cases of the same nature; that he has paid so little attention to business as to be obliged to avow that he did not know what had been passing, and that he has even rendered three contradictory judgments in the same case.

" Resolved, That it is the opinion of this committee, that the said James Kerr has, while sitting on the bench, displayed a want of temper and of courtesy incompatible with the due performance of his duty; that he has decided arbitrarily and with passion, and has used his power as a judge to gratify his cupidity and revenge.

" Resolved, That it is the opinion of this committe, that the said James Kerr is guilty of having illegally altered and reversed some of his own judgments, and of having suspended the execution of others, after they had been rendered with the usual formalities, and duly recorded.

" Resolved, That it is the opinion of this committee, that the said James Kerr is guilty of contempt of the laws of this country, in evincing a repugnance to execute certain of his judicial functions, and alleging that they were beneath the dignity of an english judge.

" Resolved, That it is the opinion of this committee, that the said James Kerr, in exacting and receiving fees as judge surrogate of the court of vice-admiralty, without having any right to them, at the same time that he was receiving a fixed salary in lieu thereof, has been guilty of extortion, and in so doing, illegally and under color of his office, levied a tax on his Majesty's subjects.

" Resolved, That it is the opinion of this committee, that the said James Kerr having been called upon by the head of the executive to defend his conduct in taking the said fees, did, instead of exculpating himself, and with a forgetfulness of the respect he owed to his king and to the government under which he holds so many places of the highest trust, voluntarily and maliciously accuse the people of this province of disloyalty and factiousness, and had recourse at the same time to other language not less injurious in speaking of the proceeding of this house, and of its composition as representing the inhabitants of the country.

" Resolved, That it is the opinion of this committee, that

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for these reasons, the said James Kerr is unworthy of the confidence of his Majesty, and cannot compatibly with the honor of the government and the interests of the people, hold any public office in this province.

"Resolved, That it is the opinion of this committee, that an humble address be presented to his excellency the governor in chief, praying him to suspend the said honorable James Kerr, from the exercise of his judicial functions as one of the justices of his Majesty's court of king's bench for the district of Quebec, and as judge surrogate of the court of vice-admiralty, until it shall have pleased his Majesty to give his sanction to the bill passed by the two branches of the legislature during the present session, for the independence of the judges, and for establishing a tribunal for the trial of impeachments, and thence until the end of the then next session of the provincial parliament, in order that during such session, the assembly may proceed further, and in a constitutional manner upon the said accusations."*

* "And the first of the said resolutions being again read, and the question of concurrence being put thereon;

"The house divided; and the names being called for, they were taken down, as followeth:—

"Yeas—Messieurs Archambeault, Baker, Blanchard, Louis Bourdages, Bureau, Casgrain, Cazeau, Clouet, Courteau, Deschamps, Dessaulles, De Witt, Dionne, Pierre Antoine Dorion, Duval, Fortin, Girouard, Goodhue, Huot, Lagueux, Laterrière, Lee, Methot, Morin, Mousseau, Noël, Panet, Peck, Proulx, Quesnel, Quirouet, Raymond, Thibaudeau, Trudel, Viger, Wright, Wurtele and Young.—(38.)

"Nays—Messieurs Heriot, Larue, Neilson, Stuart, Pierre Elzéar Taschereau, and Taylor, (6.)"—*Journals of the Assembly.*

Nothing further on the subject took place this session, but an address to his Majesty was voted at the following, in consequence of which Mr. Kerr went to England, where he was deprived of both his appointments—first as judge of the Vice-admiralty, and then as judge of the king's bench at Quebec, not by reason, however, of the present complaints, but of other matters to be hereafter noticed.

## CHAPTER XXXII.

Violence of the press—election and riot, and unhappy circumstances in consequence of it at Montreal—Coroner's inquest—and other legal proceedings—Mr. Papineau addresses a letter on the subject to lord Aylmer—Asiatic cholera breaks out in Quebec—then at Montreal and proceeds westward—public meeting at St. Charles on the Chambly—resolutions passed—Annexation of Montreal to Upper Canada proposed—Extracts from public prints on various subjects proper to be recorded, vizt.:—public meeting at Montreal to express sentiments of loyalty and confidence in the existing constitution—arrivals at Quebec, in 1831 and 1832—Extracts from a letter of lord Aylmer to the colonial minister, relating to the eastern townships and those on the Ottawa, &c.



THE anti-government press, and more particularly the newspapers published in the french language became, after the prorogation, remarkable for asperity, and excessively licentious and abusive. The governor's language, however, on that occasion, afforded proof that he was recovering of the sentimentality which he acquainted the assembly, at the opening of the session, habitually prompted his matin ejaculations, and was now about to assume the propriety of his position.*

* The following remarks, by the committee of the legislative council of Upper Canada, from whose "report" we have already quoted, may not be inappropriate here:—"If the present assembly of Lower Canada were dissolved, and a new one chosen, the legisla-

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An unhappy occurrence took place at Montreal at this time, that requires notice. A ture might be again convened, and plainly told, that unless they would provide permanently for the ordinary civil list, the colony must be governed in another manner; and the alternative should not be proposed to them as an idle threat, but should be deliberately and firmly submitted to their choice.

"Your committee do not hesitate to say, that a representative form of constitution should never have been conferred on any colony, until the administration of justice and the necessary charges for the civil government, had been so provided for as to secure them against the caprice of either branch of the legislature—or at least the passing an act for that purpose, in the first session, should have been the condition on which alone their charter should continue in force; and such an act should be the best evidence a colony could give of its desire to guard the integrity of its Institutions. The observation of what has passed in Lower Canada, within the last twenty years, can leave no doubt on this point.

"The assembly, under the guidance of two or three leaders, who have any thing in view but the public good, become involved in an altercation with the governor. The only ground for the quarrel probably is that he feels it to be his duty, for the sake of the colony, to defend the constitution from popular encroachment.

"In the hope of compelling him to yield, the assembly refuses the supplies; this refusal occasions the greatest public inconvenience, and much distress to individuals. If it be repeated the next year the evil becomes almost intolerable. Of this the government in England are easily made sensible; and looking unfortunately more to the effect than to the cause, they recal their governor, not because he has done any thing wrong, but simply because he is in trouble.

"His successor knows that the stumbling block was the annual supply, and that it is expected of him that he will manage somehow to remove that difficulty.

"The assembly he concludes cannot be driven, but he flatters himself they may be persuaded; and as the well-disposed members of that body require no persuasion, and may safely be left to their sense of public duty, the effect is expected to be produced by extraordinary deference and civility, to the very persons who notoriously deserve least the respect or confidence of the government. Those who have treated his predecessor with the greatest rudeness and injustice are the individuals whom it is most his care to conciliate.

"Their public principles, and not unfrequently their private characters, make them by no means fit to be the chosen associates of the representative of our sovereign. To be just to them, and to all others, is plainly a matter of duty—to treat them even with that courtesy which is observed towards strangers might not be improper, but to make them the particular objects of civility and favor, gives disgust to the respectable and well-affected portion of society, and brings the government speedily into universal contempt. The policy, nevertheless, generally avails for one year, and with a governor not particu-

vacancy having taken place in the representation of the west ward of the city, two candidates presented themselves. One of these was Doctor Tracey, editor of a newspaper of rather violent politics, (*the Vindicator*) previously mentioned as having incurred the displeasure



larly high-minded, it may last for two. The assembly have at first a desire to mortify the governor who has been recalled, by granting to his successor what they have withheld from him; then their hope of obtaining some important concession from their new governor, before he understands his situation and duty, makes them extend the time a little longer; but two years can hardly pass before something is asked which the governor either cannot, or will not grant, and then begins with him the same course of treatment which enabled them to get rid of his predecessor.

"They threaten to grant him no supply, and from that moment the choice is set before him of being added speedily to the list of displaced governors, or of gaining at least a temporary reprieve by concessions. If he is firm, his fate is certain; the assembly will grant him no supply, and then, in order to make out a sufficient excuse for withholding it, they heap the most atrocious abuse upon their governor. It matters not that his name was never before coupled with dishonor—that in the course of a long public service, and perhaps in the government of other colonies, he has been respected and beloved; the generous nobleman, and high-minded soldier, finds himself suddenly held up to public odium as tyrannical, unjust, false, and perhaps even cowardly. Being vilified in the assembly, and by a scurrilous press, he is concluded to be unpopular, and then his removal follows of course, when the succession of another governor begins anew this game, by which every man in the community loses, except a few political leaders, the greater number of whom perhaps are worthless and insignificant in all other respects, except from their power to do evil, which their seat in the assembly gives them.

"But we must remember that the temptation to governors is in several respects strong, to avoid bringing things to this issue, by making any possible sacrifice: and the history of Lower Canada, furnishes too many instances where this temptation has prevailed.

"No constitution can stand long against the assaults to which it is exposed under such a system; and it is the interest of all classes of persons, who really believe that their form of government is worth preserving, to secure it against the greatest danger it is exposed to, by relieving the executive departments from a state of ruinous dependence on the assembly.

"There is another evil consequence of this dependence in the temptation to which it exposes the public officers of the colony, to ingratiate themselves with the leaders of a faction who can measure out to them, or withhold their subsistence, as they please."

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of the legislative council; the other, Mr. Bagg, a man of business and respectability, each ardently supported by their respective friends. The election being, in fact, a contest between the two parties, british and canadian, into which Montreal was divided, had lasted three weeks, during which the hostile feelings between those parties naturally increased and finally became exasperated. Tracey was only two or three ahead of his opponent, and the contest, though near the close, still doubtful, when it being apprehended, from the heat and animosity of the masses, already uncontrollable by the civil authorities, that a sanguinary conflict between them would take place, it was deemed necessary to have in readiness a small military force, in case of emergency. The 15th regiment of foot, under command of lieut.-col. Macintosh, was then in barracks at Montreal, and accordingly this unpleasant duty devolved upon a detachment of it, which was told off in the barrack yard, in the forenoon of the 21st of May, and in charge of captain Temple, marched to the neighbourhood of the hustings, to be in readiness, if required. Lieut.-col. Macintosh himself attended the party, and with the Magistrates spared no pains, it seems, to avert the direful necessity of calling them into action. It were tedious to enter into details, or to determine which party exhibited most violence on the occasion; indeed the papers of the day and spectators even differ as to this. Suffice it to say, that they to whom, in such cases, the

laws of the land confide the public safety and the obligation of judging of the necessity there may be of interposing the military arm, deemed, it is said, after much forbearance, that the moment for it had unhappily arrived. An excited multitude, headed and led on by Mr. Tracey himself, had set at defiance the special constables sworn in for the occasion, and showering at them, as well as at the troops, brick-bats, stones and missiles of every description that could be procured, had, among others, twice struck and severely bruised lieut. col. Macintosh, while quietly endeavouring to persuade them to disperse, and were prepared, it was feared, for further violence that might have involved the city in the horrors of conflagration and of bloodshed. Remonstrance rarely succeeds with an infuriated populace, and there being no longer the least prospect that it would avail on the present occasion, the word was reluctantly given and the troops fired. The crowd immediately dispersed, leaving on the spot three slain and two severely wounded. Mr. Tracey was declared elected by a majority of three, but did not live to take his seat in the assembly, being carried off by the Asiatic cholera, which this summer made its first appearance in Canada.

This most untoward event created an extraordinary sensation. An inquest sat upon the victims, but without coming to a verdict, nine of the jurors summoned by the Coroner agreeing to a special verdict that they were

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shot by the military under the command of lieut.-colonel Macintosh, the three others adding, or rather wishing to add, to the verdict, without which they would not concur in it, that they were shot during a riot. The Coroner nevertheless issued his warrant against lieut.-colonel Macintosh and captain Temple, who being apprehended pursuant to it, were bailed out on giving sureties to the amount of £1000 each. This proceeding, however, on application to the judges of the court of king's bench, was set aside as illegal. Those gentlemen were, subsequent to the above proceedings, again subjected to arrest on the same account, and to other vexatious steps at law against them, evidently vindictive, by which they were put to much trouble, expense and probably anxiety, being released always on application to the judges, until the matter was finally disposed of by the rejection of a bill of indictment against them and the magistrates who had acted on the occasion, for murder, laid before the grand jury, and which they returned "no bill." *.

* The grand jury, in the September term of the Montreal criminal assises, after throwing out bills of indictment that had been laid before them against William Robertson and Pierre Lukin, esquires, the magistrates who had acted on the 21st May, and lieut. col. Macintosh and captain Temple, made a presentment on the subject to the court, expressing themselves as follows:—

"The grand jury humbly represent to the court that in the investigation of the occurrence upon which were founded, the bills for murder, against William Robertson and Pierre Lukin, esquires, col. Macintosh and captain Temple, they have fully and impartially examined into all circumstancee of the case, and the result of their proceedings is the conviction that no ground exists for any criminal charge against those individuals. In such an instance as the present,

Mr. Papineau, the day after the unhappy occurrence mentioned, addressed a letter on

where violent agitation has convulsed society, the grand jury are impelled by a sense of duty, beyond the mere recognition of these bills, to endeavour at allaying excitement by an expression of the knowledge at which they have arrived, after a severe enquiry into the transaction. The facts disclosed to the jury are briefly these:—

"That during the latter days of the election of a member of the provincial assembly for the west ward of the city of Montreal, in April and May last, much excitement prevailed, which occasionally terminated in breaches of the peace.

"That on the 21st day of May, the magistrates, seeing a disposition towards violence in the crowd assembled at or near the poll, at the request of the returning officer, had caused a number of special constables to attend there, and fearing, from previous occurrences, that this power would prove inadequate to repress any tumult determined on providing a military force to act in case of need.

"That accordingly, a requisition, for troops, was made to captain Temple, and signed by William Robertson and Pierre Lukin, esqrs., justices of the peace for the district of Montreal.

"That upon this requisition, between two and three o'clock in the afternoon of that day, a body of troops was posted in the vicinity of the place where the poll was held.

"That a short time afterwards, an increased disposition to riot having manifested itself, the magistrates tried to restore order by reading the riot act.

"That the assemblage not having dispersed at the close of the poll, a conflict arose in which various acts of violence were committed.

"That a body of the rioters having assailed, with stones, and other missiles, a house occupied by one Mr. Henderson, with the evident design of injuring individuals who had taken refuge there, and the civil power being insufficient to protect the persons and property of his Majesty's subjects, from the imminent danger with which they were threatened, the interposition of the military force became necessary.

"That in subduing the riot the troops were obliged to advance.

"That being assaulted and resisted in that movement they were commanded to fire, and in the execution of this order three individuals were killed.

"However much the grand jury may deplore the circumstances which flowed from the introduction of an armed force on that occasion, they feel persuaded that it was fully justified by the conjuncture and its timely interposition in their behalf averted the calamities which must have ensued, if the rioters had been suffered to pursue their impetuous and destructive course. With this view of the case the grand jury cannot withhold the public declaration of their opinion, that the conduct observed, as well by the magistrates as by the military authorities, during those events, is worthy of commendation at the hands of those who love peace and respect the laws, while the inhabitants of the city of Montreal, in particular, are deeply indebted

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the subject to lord Aylmer, pressing his excellency to repair in person immediately to

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to the firm discharge, by those gentlemen, of their respective duties, for restoration to a state of security, and for the protection of their lives and property.

(Signed) "CHARLES PENNER, Foreman."

"Lieut. col. Macintosh and capt. Temple were discharged by proclamation, all the formalities observed on such occasions having been gone through."

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The following documents, on the same subject, will also be perused with interest:—

"Quebec, 3d September, 1832.

"GENERAL ORDER.—On the 21st of May last, a detachment of the 15th regt. commanded by lieut.-col. Macintosh, having under his orders capt. Temple of the same regt., were called out by the magistrates of Montreal, for the purpose of aiding the civil power in the suppression of a riot in that city, by which the lives and property of the inhabitants were endangered, and the magistrates having failed in their efforts to restore order by other means, the troops were required to make use of their arms, on which occasion three individuals were unfortunately killed and others wounded.

"The loss of life caused by the fire of the troops, is an event deeply to be deplored, and the commander of the forces is persuaded that throughout this colony, there are not to be found any individuals, who more sincerely and sensibly lament that event than lieut.-col. Macintosh and capt. Temple, and those very soldiers whose painful duty it was to make use of their arms on the 21st May. It is, however, consolatory to reflect, that the riot was suppressed without a further sacrifice of human life, which there was every reason to apprehend, and perhaps very many of the peaceable inhabitants of the city of Montreal, are at this moment indebted for the preservation of their lives and property to the timely interference of the troops acting under direction of the magistrates.—Although the commander of the forces was disposed to place the greatest reliance on the discretion and judgment of lieut.-col Macintosh and upon the steadiness and discipline of the regiment under his command, his lordship, nevertheless, considered it to be incumbent upon him to suspend his judgment in regard to the events of the 21st May, until the whole of the circumstances connected with those events should undergo the fullest investigation before the proper tribunals of the country, whose duty it is to take cognizance of criminal offences.

"This duty has now been performed, and lieut.-col. Macintosh, capt. Temple, and the troops employed under their command in suppressing the riot at Montreal, on the 21st of May last, having been absolved from all blame, the commander of the forces hastens to embrace the opportunity thus afforded him to convey to lieut.-col. Macintosh and capt. Temple and the non-commissioned officers and soldiers of the 15th regiment, employed in the suppression of a riot at Montreal, on the 21st of May last, his approbation of the judgment,

Montreal, to investigate the matter, and to bring with him Messieurs John Neilson and

steadiness and discipline displayed by them, in their respective stations on that occasion.

(Signed) "G. A. Elliot, lt.-col. act'g D. A. G."

Letter addressed by order of his excellency the governor in chief, to the magistrates of Montreal, on the matter of the riot of the 21st May:—

"Castle of St. Lewis, Quebec, 3d Sept., 1832.

"Sir,—The governor in chief has directed me to desire that you will be pleased, without loss of time, to make the following communication to your brother magistrates of Montreal.

"The governor in chief could not fail to be deeply affected at the loss of life which attended the suppression of a riot at Montreal, on the 21st of May last; but whilst he shares in the grief which every class of his Majesty's subjects must have felt upon that melancholy occasion, not excepting those very soldiers whose duty compelled them to make use of their arms—his excellency entertained a very confident expectation, that upon inquiry it would be found that the measures taken by the magistrates were all dictated by necessity, and that the troops employed under their directions, had not been called upon to act until all other means of restoring the public tranquillity had proved ineffectual.

"The examinations taken before the coroner's inquest, which assembled for the purpose of investigating the circumstances connected with the death of the three individuals who unfortunately lost their lives by the fire of the troops, were calculated to justify this expectation on the part of his excellency; and being well aware of the painful anxiety the magistrates must have suffered, arising from the responsibility incurred by them in the discharge of their important duties, his excellency felt greatly disposed to cause a communication to be addressed to those gentlemen, expressive of his approbation of their proceedings.

"Considering, however, that a judicial enquiry was still going forward, which might eventually present a different view of the subject, and render further proceedings necessary, his excellency deemed it more prudent to suspend his judgment, and to await in silence the final result of whatever proceedings the circumstances of the case might make it necessary to institute, before the ordinary tribunals of the country, whose duty it is to take cognizance of criminal offences.

"The governor in chief entertained hopes that the reserve which he had thus imposed upon himself, would have served as an example to others, and that the law would have been suffered to take its due course without any attempt being made to prejudice the public mind upon the subject of an inquiry, involving such awful consequences to the parties concerned.

"It was not, therefore, without feelings of deep regret, arising from his anxious desire to see the laws fairly and impartially administered on all occasions, that his excellency received information,

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Philippe Panet to assist in the inquiry. The governor took no notice of this letter (which

the truth of which he had no reason to doubt, that public meetings had been held in some few places in the province, at which meetings, in defiance of every principle of justice, and at a time when the lives of those individulas were in jeopardy from the judicial inquiry then in progress, the magistrates and the military employed under their directions on the 21st May, were rashly pronounced guilty of the foul crime of murder. Proceedings such as those above described afford matter for serious reflection in a country, where upon all trials of life and death, the life of the accused party is in the hands of a jury taken from the body of the people, but as the governor in chief is in daily expectation of being furnished with opportunities more fit and appropriate than the present occasion for expressing his sentiments on this subject, he forbears to dwell further upon it in this place.

"The expected inquiry has now taken place; bills of indictment have been preferred against certain of the magistrates, and of the military employed under their directions on the 21st of May last; and after a strict, impartial and laborious inquiry into all the circumstances of the case, by the grand jury of the district of Montreal, the parties implicated have been absolved from all blame.

"Such having been the result of the investigation of the grand jury, the governor in chief considers that the time is now arrived for conveying to the magistrates of Montreal, his thanks for the firmness, moderation and judgment displayed by them during the whole of the disturbances which agitated the city of Montreal in the month of May last, and which at one time threatened a repetition of the scenes recently exhibited in one of the most opulent and flourishing cities of the British empire, terminating in the sacrifice of many lives, and the destruction of property to an immense amount. With this example before our eyes, it is not, perhaps, unreasonable to presume, that very many of the peaceable inhabitants of Montreal, are at this moment indebted for the preservation of their lives and property to the firmness of the magistrates, and the timely interference of the troops acting under their directions.

"I have the honor to be, sir, your most obt. humble servt.,

"H. Craig, Secretary."

"To the senior Magistrate, Montreal."

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"To lieut.-col. Macintosh, capt. Temple and the other officers of his Majesty's 15th regiment, who were on duty at Montreal on the 21st May last:—

"Gentlemen,—We, the subscribers, citizens of Montreal, feel it a duty that we owe to you, to express our thanks for your conduct and that of the troops under your command, on the occasion of your being called to restore and preserve the public peace, so unhappily broken at the close of the poll for the election of a member for the west ward of this city, on the 21st May last.

"So strong was our conviction of the importance of the services rendered by you and the magistrates on that occasion, that our desire

we shall have occasion hereafter to present to the reader) as a piece of officious interference

was to have expressed our testimony of them immediately upon their occurrence, but considerations arising from the interposition of judicial authority prompted us to defer it.

"These considerations having now been removed, in a manner most satisfactory to you and to ourselves, we beg leave most respectfully to convey to you this expression of the obligation that we feel we are under to you for the safety, that we then and have since enjoyed in our persons and property through your means, for that it is to the military and the magistrates that we owe our preservation, has been manifestly brought to light before the grand jury, by their finding the presentment lately returned into the court of king's bench. We have only further to express a regret that the performance of a necessary but painful duty, should have subjected any one of you for a time to unpleasant and unmerited restraint."

"October, 1833."

ANSWER.

"Gentlemen,—I regret that lieut.-col. Macintosh is not present to receive you on this gratifying occasion—he is now absent on leave. On his behalf, and for myself, and on behalf of the officers and men of his Majesty's 15th regiment, who were on duty on the 21st of May last, I beg to express to you, that we are proud to receive from the citizens of Montreal, so flattering a mark of their approbation of our conduct, in the execution of the most painful duty a soldier can be called upon to perform—the suppression of a civil commotion by a military force. I shall not fail to communicate your sentiments to lieut.-col. Macintosh, and the officers and men of the 15th regiment, who were on duty on that occasion."

It is also to be remarked, that after the rejection of the bill of indictment by the grand jury, there was an absurd attempt still further to persecute those gentlemen by an old but obsolete proceeding at law, known as an "appeal of death," and on which they were, it appears, apprehended, but liberated by the judges, pursuant to a writ of habeas corpus.

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"Head Quarters, Quebec, 8th Jan., 1833.

"General Order.—The commander of the forces has great satisfaction in communicating to the army in British North America, a copy of a letter which has been addressed to him by the military secretary of the general commanding in chief, expressive of his lordship's approbation of the conduct of lieut.-col Macintosh and capt. Temple, and a detachment of the 15th regiment, on the occasion of the riot at Montreal, on the 21st May last, in the suppression of which the troops had been called upon to aid the civil power.

"JOHN EDEN, lieut.-col., D. A. G."

(Copy.) "Horse Guards, 2d Oct., 1832.

"My Lord,—I have the honor to receive and submit to the general commanding in chief, your lordship's despatch of the 30th July

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on the part of the speaker, in a matter foreign to him, giving, it was said, a rather unsatisfactory verbal answer to Mr. L. M. Viger, who had been the bearer of the letter, and leaving, with propriety, the investigation of the subject to the legal and proper authorities, with whom it certainly did not become him to interfere. This, of course, wounded Mr. Papineau's susceptibility, who probably had despatched the missive without sufficient reflection, or its once occurring to him that the course he suggested, was highly objectionable. Mr. Papineau evinced, it was also thought, too active and conspicuous an interest in the Coroner's inquest on the occasion, and such as, though excusable in a partizan, but ill became his station as speaker of the assembly, of the dignity whereof it was said, in his zeal to inculpate

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and 7th September last, conveying, for lord Hill's information, reports of what had taken place in consequence of a detachment of the 15th foot, under the command of lieut-col. Macintosh and capt. Temple, having, when called out in aid of the civil power at Montreal, on the 21st of May last, been compelled to resort to the use of their arms, by which unfortunately three persons were killed and several wounded.

"The general commanding in chief, equally with your lordship, laments the loss of human life on the occasion adverted to, but, in justice to lieut.-col. Macintosh and capt. Temple, he feels bound to say, after an attentive perusal of all the papers bearing upon the case, that he knows no instance in which troops have been employed for the suppression of riots, where greater judgment, discretion, or humanity, have been displayed, and if these officers have been since annoyed by accusations of murder, and by every proceeding which could tend to keep alive anxiety, they have at least the consolation of feeling that they discharged a painful, but imperative duty, with temper and moderation, and that, by so doing, they put an end to disorders which would probably have led to consequences the most disastrous to the city of Montreal."

"I have, &c. "FITZ ROY SOMERSET."

"Lieut.-gen. lord Aylmer, K. C. B., &c., &c., &c."

the magistrates and military, he entirely lost sight.



The Asiatic cholera had made its appearance in England during the late winter, and the government at home, with characteristic providence and anxiety for the welfare of the province, had advised the governor to make preparations against it in Canada, as in all human probability it would, with the influx of immigrants hither, attend them. Legislative provision accordingly was made at the late session of the provincial parliament to meet the impending evil, and sanatory precautions were adopted. Grosse Isle, thirty miles below the port of Quebec, was made a quarantine station, to which medical men were appointed, and temporary wooden buildings were erected upon it, for hospitals, and the establishment put under military government, a captain of one of the regiments at Quebec with a small detachment of troops being sent to take the command. The spring of 1832 was rainy, cold and backward, and remarkable by the prevalence of heavy north-easterly gales. With the arrival of every vessel bringing immigrants the pestilence was expected to make its appearance in Quebec. At length, on the 8th of June, the appalling news reached the city of its actual appearance at Grosse Isle, by the Carricks from Dublin, with 133 passengers on board, fifty-nine having died of cholera during the passage. On the following day, as if brought by the wind, there were several cases

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of it in Quebec, and of fifteen that were known to have occurred, seven were reported to have terminated fatally. From Quebec, it bounded onwards as it were by leaps, in its direful progress up the St. Lawrence, breaking out on the 10th at Montreal, with great violence, a day or two after at Kingston, then at Toronto, and thence westward through all the small towns and principal villages in Upper Canada, going with the immigrants, and in some instances preceding them, as it is believed,* spreading death and desolation along its route. Of 355 admissions, (immigrants chiefly) from the 8th to the 16th of June, inclusively, into the Cholera Hospital at Quebec, there were 179 deaths. On the 20th of June, at Montreal, of 165 cases reported during the preceding twenty-four hours, 88 deaths had occurred, and of 137 cases during the following twenty-four hours, there were 77 deaths.†

* It was stated in the newspapers of Quebec, in July, that a *voyageur* recently arrived from the king's posts (north shore of the St. Lawrence below Quebec,) had brought information of the prevalence of disease among the Indians of the north, inland 100 leagues from the sea, during the early part of the month of May last, in many particulars, for instance, cramps, diarrhæa, and vomiting, resembling asiatic cholera The indians, it was said, cured themselves by taking a decoction of the barks from certain forest trees abounding in the tracts they inhabited. This, it was thought by many, clearly proved that the introduction of the disease into Canada, was not altogether attributable to the arrival of immigrants, since a similar disease had afflicted a place wholly unconnected at the time with european intercourse. Something of the same description was reported to have occurred on the Niagara frontier, in Upper Canada, during the previous winter.

† " *On the 2d September*, the total number of burials at Quebec, of persons dead of cholera, *from the 9th June*, both days inclusive, is *two thousand two hundred and eighteen*. out of *a population about one-eighth that of New York*, in which the total number of deaths

While pestilence was thus scourging the province, that other equally pestilent scourge, political agitation, was also doing its work. At a public meeting held on the 30th July, at the village Debartzch, parish of St. Charles, on the river Chambly, it was resolved by the notables assembled on the occasion, that "England will always be held accountable for having permitted so extensive an emigration at a time when it was under the dreadful influence of the cholera, which, by this means, has been intro-

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of the disease, in two-thirds of the time, has been only a little more than at Quebec. Had New York been visited with the same severity as Quebec, it would have had about 12000 deaths in the two months; and instead of the highest number one day being about 150, it would have been 1100. Paris, in the same proportion as Quebec, would have had 3432 deaths a-day, instead of 800, which was the maximum in that city.

"At the rate of mortality at Quebec, of cholera alone, from 9th June to 2d September, a number equal to the whole population would die in less than four years; at the rate from 7th August to 2d September, in less than seven.

"About one-third of the deaths are supposed to be transient persons, or emigrants not long in the country.

"The total number of deaths throughout the province, in 3 months, out of a population of about half a million, already exceeds the total deaths in Great Britain, with a population of fifteen millions, in six months.

"The eastern parts of the district of Quebec, and many other populous parts of the province, can hardly be said to have been visited by the disease.

"8th Sept., 1832." "N. O."

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"The following statements of the total interments from Cholera and other diseases, from the 7th June to the 30th September, inclusive, in the protestant burial grounds, and of the roman catholic churches have been furnished to us—we believe them to be correct:—

"In the protestant grounds to 30th ultimo,..... 1244
"Catholic cathedral and cholera grounds to 25th ditto.... 1574
"At St. Roch,..... 474

—*Quebec Mercury, Octr.* 1832. Total,.... 3292

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duced into the colony, the climate of which was the most healthy in America, and which is now covered with mourning and desolation."

Among other extraordinary matters expressed on the occasion, it was "resolved that it is important that this assembly should clearly express itself upon the present formation of the legislative council, and that it has no hesitation in resolving that so long as the nomination of the members of the said council shall remain at the will and power of the head of the executive of this province, that intermediate body will always be dependent on the body which has named it, and will always be in direct opposition to the interests of the public and indifferent to the protection of their rights and privileges."

At this meeting, convoked, it was said, chiefly at the instance of the proprietor of the seigniory (Mr. Debartzch) in which it took place, and himself a member of the legislative council, that gentleman was in attendance, with others of influence recently appointed to the council, all concurring, it would seem, in those sentiments. It was also "resolved that the speech of the governor in chief, at the close of the last session of the provincial parliament, with reference to his observations on the refusal by the assembly to vote the civil list, as demanded by his excellency, for the life of the king, is an insult to the character of the assembly, an infraction of its rights, its privileges and its independence; such conduct, on

the part of the head of the executive government, only tending to destroy the confidence of the country in their representatives, and to bring contempt upon their proceedings." We have already noticed St. Charles, as the central point of agitation in the district of Montreal

The annexation of the city and island of Montreal, as a seaport to Upper Canada, was, towards the close of the present year, proposed at a public meeting at York, the capital of that province. The subject was freely agitated in the papers in both provinces, but as previously mentioned, the project was exceedingly distasteful to the population in Lower Canada, of french origin.

The matters discussed and the opinions which, at this time, were entertained of them, will be better understood from the following, as taken from the public prints, than by a detail in any other shape in which we can present them:—And first—refering to the meeting at the village Debartzch, it was resolved,

1. – "That since the closing of the last session of the legislature of this province, different events, each more serious than the other, have taken place both here and in the mother country, which have plunged the province in mourning, and make it anticipate now and hereafter the most alarming results.

2.—"That this assembly conscientiously believes these events to be, both in principle and effect, subversive of the right of property, and of that upon which is based the present liberty of almost the entire of his Majesty's faithful subjects in this country, inasmuch as they have had the effect of undermining the social compact, such as it is happily established by the laws, upon which rest the preservation and tranquillity of the citizens.

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3—That this assembly considers that a certain part of the magistrates of the city of Montreal, during the last election for the west ward of that city, have been guilty of the most serious infringement of the franchise of the electors of the said west ward, in interposing their authority at different periods during the continuance of that election, and especially on the 21st of May, in soliciting the interference of an armed force against their fellow citizens assembled by virtue of the law, to exercise the dearest right of which a british subject can boast.

4.—" That this assembly deplores, with all the sincerity of its heart, the disastrous effects which have been the result of an interference as illegal as inconsiderate, inasmuch as it must have the effect of destroying that confidence which every citizen ought to have in the magistrates and in the armed force, whom he should always consider as the protectors of his rights and liberties.

5.—" That this meeting contemplates with the most lively satisfaction, the noble, humane, and patriotic conduct, which the honorable speaker of the house held, as the organ of the representation of the country, on the 21st of May, rendered too memorable by the murder of our citizens: in consequence, this meeting thinks that he has merited, from all the friends of justice, the testimony of their sincere approbation.

6.—" That the opinion indiscriminately uttered by the law officers of the crown, was calculated to induce the governor-in-chief not only to remove from the city of Montreal those troops under accusation of murder, but even to send them two other auxiliary companies.

7.—" That this assembly regrets that such a measure can only be considered by the citizens of Montreal, as also the whole country, as a new grievance against the executive, whose duty it was to have established, by a public and solemn inquest, who were the real culprits, and thereby to justify the innocent.

8.—" That the spirit of the english constitution and even reason itself demonstrate, that to a colonial legislature alone, belongs the exclusive right of regulating its interior affairs, for the greatest advantage of the colony, and for the greater security of the protecting government.

9.—" That although the imperial government by its differ-

ent despatches to the administrators in this colony, has acknowledged the truth and justice of the preceding resolution, the inhabitants of the country have been alarmed by an attempt recently made by the ministry, to grant to a company of rich capitalists, strangers to the interests of the country, the concession of a very large portion of the uncultivated lands of the crown, without consulting the colonial legislature, which, by its constitution, ought alone to have the government of those lands, which were twice preserved to the mother country, at the price of the blood of the children of the forest.

10.—"That in consequence, this meeting approves in their whole extent, the wise resolutions of the county of the Lake of the Two Mountains, in relation to the aforesaid uncultivated lands of the crown.

11.—"That so long as the imperial parliament shall persist in legislating to regulate the interior affairs of this colony, there must result from it a conflict in the judgments of the courts of justice, the effects of which will involve the most lamentable consequences, to the public security; because they excite prejudices and suspicions between the mother country and the colonies; and because, in such conjuncture, they furnish the means to ambitious and perverse men, of forming plans with regard to us, and realising them in the bosom of secrecy, as the experience of the past has already demonstrated; which plans have often had the effect of endangering the dearest interests of the country.

12.—"That whatever may be the views of Great Britain, in causing a considerable number of her excess population to be transported to her North American colonies, it is always certain that these excessive emigrations are dangerous and expensive, especially for the colonies where these emigrants disembark, who often bring there nothing but their ills, the extreme of indigence, and pestilential diseases, necessitating the support of the provincial treasury, and the commiseration of charitable persons; which becomes, as regards this country, an indirect tax imposed by Great Britain.

13.—"That England will, in any case, have to justify herself for having suffered so considerable an emigration, at a time when she was under the frightful influence of the

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cholera, which by this means has been introduced into colony, the climate of which is the most healthy in all America, and has covered it with mourning and desolation.

14.—"That the meeting sees with the most lively satisfaction that the representation of this province has maintained, during the last session, the same principles which were adopted in 1810, with the same zeal and the same firmness as in the preceding years, especially on the subject of the civil list.

15.—"That the liberty of the press forms an essential in the attributes of every free government. Consequently this meeting considers that the arrest and imprisonment of Messrs. Duvernay and Tracey, by the legislative council, has been an arbitrary act, and a violation of the rights and liberties of the subject.

16.—"In conclusion, that the meeting would consider itself guilty of the greatest indifference towards its fellow-citizens and towards the mother country, if it did not openly declare, that it is the most sacred duty of every honest and loyal subject of his Majesty to rebut such attempts by every lawful and constitutional means, and to make, in this respect, the most strenuous efforts, with a view to uphold the provincial legislature in the line of conduct which these serious events must prompt, in the well-founded hope that the imperial parliament will afford them a prompt and efficacious remedy.

17.—"That in consideration of all the aforesaid events, this meeting is of opinion, that it is very urgent to present an humble address to his excellency the governor in chief, demanding the immediate convocation of the provincial parliament, as soon as it can be done, persuaded that his excellency will find satisfaction and support in the representatives of a loyal people, submissive and attached to its government.

18.—"That this meeting authorises the committee already named to adopt measures for obtaining signatures to the petition, the most expeditiously possible, in all the parishes of the different counties assembled.

19.—"That the committee of this meeting is authorised to communicate with all the committees of the district of Montreal and Quebec.

20.—" Resolved, as the opinion of this meeting, that a solemn service be chaunted in every parish of the aforesaid counties, and that a collection be made therein, which shall be dedicated to the maintenance of the widows and children of the unhappy victims of the 21st of May last.

21.—" That the proceedings of this meeting be published in the newspapers.

Here terminate the proceedings of the committee.

The meeting then adopted spontaneously the following resolutions :—

1.—" Proposed by R. Boileau, esquire, and seconded by J. T. Drolet, esquire :—

" That it is important that this meeting should declare itself distinctly, upon the present composition of the legislative council, and that it should not hesitate to resolve, that so long as the nomination of members to the said council shall depend upon the will and power of the executive of this province, this intermediate body will be always dependent upon the power which created it, and will be always in direct opposition to the interests of the people, and indifferent to the protection of their rights and privileges.

2.—" That this meeting adopts the requisition which the city of Montreal is about to send his excellency, to demand promptly the convocation of the provincial legislature.

3.—" Proposed by J.T. Drolet, esquire, and seconded by Aug. Papineau, esquire,

" That the speech of his excellency the governor in chief, at the close of the last session of the provincial parliament, relating to the refusal of the house of assembly to vote the civil list, such as demanded by his excellency, for the life of the king, is an insult to the character of the house of assembly, an infraction of its rights, of its privileges, and of its independence ; such conduct on the part of the head of the executive, tending only to destroy the confidence of the country in its representatives, and to excite a contempt of their proceedings.

4.—" Proposed by J.T. Drolet, esquire, and seconded by Aug. Papineau, esquire,

" That the inhabitants born in the country, and who form nine-tenths of the population, see with mortification and discouragement, that the nomination to places of honour and

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profit, has never been equally divided, and although the ministers have often avowed the injustice of such a partiality towards the subjects of foreign origin, the colonial administration has, nevertheless, not altered its policy of naming to places by favour, without regard to talent or merits; which cannot but discourage the faithful canadian subjects, and even render them disaffected.

"Thanks were then voted to the honorable chairman, (Debartzch) to the secretary, and to those gentlemen who had addressed the meeting."

(Signed) "F. C. DUVERT, secretary."

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*From the Montreal Gazette, Nov. 6, 1832.*

"In consequence of the requisition which we inserted in our last number, a very respectable and numerous body of our fellow-citizens assembled on Saturday last, in the large rooms of the British American Hotel. Long before one o'clock, the hour appointed, many had already arrived, and at the time of the chair being taken, we believe there were more than 500 present. Seldom or ever has a meeting been held in Montreal, where so numerous and intelligent a body presented themselves, to discuss public measures.

"Horatio Gates, esquire, having been called to the chair, and several the gentlemen present, including the most respectable merchants, proprietors and substantial householders of the city having addressed the meeting, it was unanimously resolved,

"That this meeting seeing the dangerous consequences which might flow from proceedings which have taken place, tending to mislead the loyal inhabitants of this province, consider it a duty to use all lawful means in their power, for counteracting the designs of the ill-intended and disaffected, and for preserving the form of Government and the institutions which they now enjoy.

"That the constitution of this province is, in all respects well calculated to advance the prosperity of the country, and to secure the happiness of all classes of his Majesty's canadian subjects.

"That the legislative council of the province, as consti-

tuted by act of the imperial parliament, is an essential branch of the legislature, and that any change in the mode of creating the members of that body is inexpedient and unnecessary, and would be dangerous to the peace and welfare of the country.

"That the determination to render the legislative council of this province an elective body, evinced in the proceedings of certain assemblies of persons, lately held in the country parts of this district, and the unjust aspersions cast upon the courts of justice, are regarded by this meeting, with apprehension and regret, as the efforts of factious and designing men to engender dissatisfaction to the constitution and government of the province; while this meeting is persuaded that the well disposed inhabitants of the province, desire no alteration in the constitution of their legislature, and have full confidence in the administration of the laws.

"That the political excitement which disaffected persons have partially produced, and which they are endeavouring to extend over the country, is calculated to induce a want of confidence in the security of property in this province, and thereby to embarrass and weaken the commercial relations of the inhabitants thereof with the mother country and the sister colonies.

"That the measures pursued by disaffected persons, now disturbing this community, tend to estrange the affections of the people of this country from his Majesty, to weaken their adherence to his government, and to excite animosity against their fellow subjects from the mother country and the sister colonies. This meeting considers the time to have arrived, when it is the bounden duty of every well disposed subject of his Majesty, in these provinces, to declare openly his unalterable attachment to the government, his unimpaired confidence in the administration of the laws, his full reliance on the protection of the mother country, and his determination to maintain her sovereignty over this portion of the empire.

"That it is expedient that an humble address be presented to his Majesty, founded on the foregoing resolutions, and that the following gentlemen be appointed a

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committee for that purpose, with power to add to their numbers:—

| | |
|---|---|
| J. C. Grant, | Dr. W. Caldwell, |
| Hypolite Guy, | Dr. B. Rollin, |
| Alexr. Buchanan, | Augustin Perreault, |
| Jules Quesnel, | T. B. Anderson, |
| George Auldjo, | Felix Souligny, |
| Turton Penn, | Joseph Masson, |
| Pierre Bibaud, | J. T. Barrett, esqrs." |

The above were energetically responded to in all quarters. Meetings were convoked and held in the eastern townships, and in other parts inhabited like them by people of british birth or descent, at which strong resolutions were adopted similar to those above of their countrymen or race at Montreal, and in opposition to those passed at the village Debartzch. It would occupy too much room to quote even the tythe of them, but the foregoing may be taken as expressing the spirit of the whole mass universally throughout Lower Canada.

The following extracts are from the report of the Commissioners for emigration, (England) made from a return by A. C. Buchanan, esq., Emigrant Agent at Quebec :—

Comparative statement of the number of Emigrants arrived at Quebec, during the years 1829, 1830 and 1831 :—

| *From whence.* | 1829. | 1830. | 1831. |
|---|---|---|---|
| Ireland,..... | 9,614 | 18,300 | 34,133 |
| England and Wales,..... | 3,565 | 6,799 | 10,343 |
| Scotland,..... | 2,643 | 2,450 | 5,354 |
| Newfoundland, Halifax, &c.,.... | 123 | 451 | 424 |
| | 15,945 | 28,000 | 50,254 |

*Disposal of the Emigrants of* 1831.

| | | | |
|---|---|---|---|
| City und District of Québec,*..... | | 8,500 | |
| Of whom there are in the townships of Inverness, Leeds, Ireland, and adjoining situations, 300 families of persons,..... | 2,000 | | |
| In the seigniories of St. Giles, St. Croix and St. Antoine,..... | 1,000 | | |
| Township of Frampton and seigniory of St. Mary's and vicinity, | 650 | | |
| Val Cartier, Jacques Cartier, Portneuf, Deschambault, Stoneham, and vicinity,..... | 1,000 | | |
| City and within ten miles in circumference of Quebec,..... | 3,500 | | |
| Returned to United Kingdom,..... | 350 | | |
| | 8,500 | | |
| District of Three Rivers,..... | | 500 | |
| District of St. Francis and Eastern Townships,..... | | 1,500 | |
| City and District of Montreal,..... | | 5,500 | |
| Ottawa and scattered situations,..... | | 1,000 | |
| Gaspé and Chaleurs,..... | | 500 | |
| | | | 17,500 |
| Upper Canada,..... | | 26,500 | |
| United States,..... | | 6,254 | |
| | | | 32,754 |
| | | Total.... | 50,254 |

* N. B.—A great portion of these emigrants went to their settlements during September and October, and consequently could not be included in the late census returns

To the new settlements in the county of Megantic, more than 150 families have proceeded since the first of October.

A. C. Buchanan.

The following address to lieut.-col. By, on the eve of his departure for England, after finishing the Rideau canal, is expressive of the sense of the country with respect to his exertions and merit in achieving that splendid national work, and is therefore recorded:—

Montreal, October 6, 1832.

Sir;—I have the honor to transmit you herewith an address from the committee of trade and merchants of Montreal,

Chap. XXXII. 1832. testifying their sense of the zeal and ability you have displayed in the construction of the Rideau Canal.—We have been anxious that it should reach you before your departure from Quebec, otherwise it would have been much more numerously signed—and I am afraid, therefore, that it contains the names of only a very small portion of those who would have been desirous of evincing to you the high opinion they entertain of the ability with which you have conducted the work in question.

"I have the honor to be, sir,

"Your most obedient servant,

"GEORGE AULDJO,

"Chairman Committee of Trade."

"Lieut.-col. By, R. E., Quebec."

"To lieut.-col. By, royal engineers, commanding on the Rideau Canal, &c.

"Sir,—The undersigned, the chairman and members of the committee of trade and other inhabitants of Montreal, on the occasion of your approaching departure from Canada, with which you have been so long and honorably connected, beg leave to assure you, of the high opinion they entertain of your public integrity and private worth.

"The arduous public services in which you have been for some years engaged, characterised by the most ardent zeal, ability and perseverance, have long attracted our special and particular observation, connected as they have been with the superintendence of one of the most magnificent and stupendous works in modern days, the Rideau canal, the completion of which cannot fail of greatly advancing the commercial prosperity of these provinces in peace, and of materially contributing to their security in war.

"We cannot refrain from expressing our gratitude for the foresight and patriotic views of that distinguished administration, under whose auspices the Rideau canal was commenced, and for having selected an officer of such talents and experience as yourself, to plan and execute an undertaking of so great magnitude and importance, the successful accomplishment of which, in so comparatively short a period, notwithstanding the unheard of and unestimable difficulties and impediments, which had to be encountered and surmounted, in an almost unexplored and uninhabited wilder-

ness, where malignant fevers and diseases of various natures enervated the energies, and prostrated the minds and bodies of officers, contractors and men; evinced on your part a moral courage, an undaunted spirit, and a combination of science and management, equally exciting our admiration and deserving of our praise.

"The work itself will be an imperishable monument, as well of the glory of that great nation to which we belong, as to your name and fame.

"In taking leave of you, we wish Mrs. By, yourself and family a prosperous voyage to your native land, and whatever envy, jealousy, disappointment, or ignorance of facts may have done, to detract from the merit of your services, we have such confidence in the justice and knowledge of the present head of your department, Sir James Kempt, who himself was a witness of your indefatigable exertions, that we venture to express a well grounded hope, they will be so represented to his Majesty's government, as to induce his Majesty to confer upon you some special mark of his royal favour and approbation."*

"Montreal, September 26, 1832."

* "RIDEAU CANAL.—A gentleman who has been stationed on the Rideau canal, in the official department, has assured us, that since the opening of that navigation, (little more than a month since) the tolls have amounted to £2,600; a sum of extraordinary magnitude, when we reflect upon the size of the craft that ply along the line, and the difficulties attendant upon a new and intricate navigation. The Grenville canal has been *eleven years* in operation, and is not near completed, which of course diminishes in a great measure the profit and utility of the former. Amidst all the incongruities and inconsistencies of the present day, *that* appears the most monstrous, that can affix an official stigma upon Col. By. for expediting a stupendous undertaking in the short space in which he completed the Rideau, whilst the Grenville line is no more than two-thirds finished, and is likely to continue an insurmountable barrier from Kingston to Montreal, for many years. In the year 1826, the Rideau was commenced, that is, as far as surveying, levelling, and building store-houses might be considered a commencement, but no active operations were engaged in till May, 1827, and in May, 1832, a steamboat passed through the whole extent, a distance from Lake Ontario to the Ottawa, of about 130 miles, having forty-seven locks, some of which have a rise of not less than fifteen feet. The Grenville passes a series of rapids on the Grand and Ottawa Rivers, in a distance of about fourteen miles. and has a lockage of about 50 feet. The chief part of the excavation is through lime-stone of a difficult nature.

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"Quebec, October 8, 1832.

"My dear sir,—"I had the honour this morning of receiving your letter of the 6th inst., transmitting an address to me from the committee of trade and merchants of Montreal, expressing in the most flattering terms their sense of the services I have rendered to Canada, and I request you will honour me by returning to them my sincere thanks for their generous acknowledgment of my services, at a moment when there is an evident attempt to throw blame upon me for carrying the orders of his Majesty's government into effect with the promptitude and vigour I was given to understand it was their wish should be used in the prosecution of that great work the Rideau canal, when I was entrusted with its construction in 1826; and I beg you will assure the gentlemen who have honored me with their approbation of my zeal in the execution of the said work, that the sentiments they have so handsomely expressed towards me,

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The Rideau, on the other hand, passes with very few exceptions, through an almost impervious wilderness. The officer in charge having had to contend with a rapid and almost unmanageable torrent during the spring floods, of the Rideau river every year since its commencement; immense dams have been built, to lull the rapids and convert their sites into navigable waters, under every vicissitude of season. The last fifty miles of the route passes through a region strictly primitive; in the course of which some hundred thousands of cubic yards of the hardest granite and other rocks have been excavated, to afford space for passing the locks on the necessary canal communication required. The sickness in this part has been unparalleled; far exceeding any thing of the kind experienced in the country. We have made these comparisons, because there appears to us a most unjust censure upon the conduct of col. By in the treasury minute, and an indirect impeachment of the integrity with which he executed his gigantic work. The Rideau cost about £750,000, which has been honestly expended in five years, and is capable of repaying, with interest, in a few years, the whole expenditure. The Grenville has cost about £100,000 and cannot be completed in less than six years.

"As we before said, col By dashed at his work, conceiving time equally as valuable as money; and the proof of our position may be adduced from the startling fact, that already the tolls have amounted to the sum above specified. Neither personal labour or attention were spared by col. By or any of his officers, and the public of Canada will regard his operations as an imperishable monument of his honour and industry, notwithstanding the efforts that have been made to detract from both.—*Kingston Chronicle, August* 25.

will ever be cherished in my breast with feelings of the deepest gratitude and esteem.

"On Saturday I embark for England, and with a heart full of emotion at the remembrance of the happy days I have spent in this country, where I have passed upwards of sixteen years, I bid adieu to Canada and its hospitable inhabitants with feelings far more easily imagined than described; and I request you will assure the committee of trade and the merchants of Montreal, that although absent from this happy country, whilst I have life, I shall ever feel the greatest pride and pleasure in rendering any assistance my humble abilities may afford in furthering the growing prosperity of Canada. And with every wish for the health and prosperity of yourself and family, I have the honor to be, my dear sir,

"Your most obedient humble servant,

"JOHN BY."

"To G. Auldjo, esqr., &c. &c. &c., Montreal."

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Comparative statement of tonnage and settlers at the port of Quebec, to the 15th October of the past and present year:—

| | Vessels. | Tonnage. | Settlers. |
|---|---|---|---|
| 1831 | 934 | 243,876 | 48,973 |
| 1832 | 915 | 237,813 | 49,281 |

Comparative statement of arrivals and tonnage at the port of Quebec, to the 28th of November inclusive, of the past and present year:—

| | Vessels. | Tonnage. |
|---|---|---|
| 1831 | 1009 | 259,878 |
| 1832 | 960 | 247,671 |

It was stated in "The *Quebec Mercury*" of the 27th November, 1832, that the total number of emigrants arrived at Quebec this season to the 26th November, was 51,728.

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"SEA PORT FOR UPPER CANADA."

"At a meeting of the committee appointed at the general meeting held on the 17th October, 1832, on the subject of annexing the Island of Montreal to this Province:—

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"Present—The Hon. W. Allan, the Attorney General, the Solicitor General, W. H. Draper, George Munro.

"The hon. W. Allan in the chair.

"Resolved, 1.—That the hon. W. Allan be chairman, Geo. Munro, esq., treasurer, and W. H. Draper, esq., secretary of the committee.

2.—"That the hon. G. H. Markland, the attorney general and the solicitor general, be a select committee to prepare an address pursuant to the sixth resolution at the public meeting, to be submitted to the committee at their next meeting.

3.—"That the committee do meet at the court house on Wednesday evening next, and that the secretary give the members notice thereof.

"W. H. DRAPER, secretary."

The following is a copy of the address agreed upon by the committee, which was printed and distributed through the country:—

"*To the King's Most Excellent Majesty.*

"We, your Majesty's most dutiful and loyal subjects, inhabitants of Upper Canada, in approaching your Majesty with sentiments of the most sincere attachment to your illustrious person and government, and gratefully acknowledging the high sense we entertain of the inestimable benefits which this province has always experienced under the paternal sway of your royal predecessors, and continues to enjoy under the fostering care of your most gracious Majesty, beg leave at the same time most respectfully to represent unto your Majesty, that the acquisition of a sea port within the limits of Upper Canada, where the commercial intercourse of this colony with the mother country and foreign nations, may be directly carried on with our own merchants, and where our revenues may be levied and collected by officers subject to the controul of our own laws, has, from the great and rapid extension of our trade and agriculture, consequent upon a vast accession of population and wealth, from the parent state, become an object of absolute necessity to the future prosperity, security and greatness of this portion of your Majesty's dominions.

"That upon the division of the late province of Quebec, by the proclamation of your royal father, in the 31st year of his reign, the two great sea ports of Canada, Quebec and Montreal, were both included within the limits of the Lower Province, while the boundaries assigned to Upper Canada, effectually excluded her from all direct intercourse with the ocean, when by extending her eastern boundary to the confluence of the rivers Ottawa and St. Lawrence, and embracing the Island of Montreal within the Upper Province, each colony would have been secured in the free enjoyment of its own commerce. Unfortunately, however, for Upper Canada, commerce was not thought of when agriculture had to be introduced, and while the province continued nearly a wilderness, the evils which are now so seriously felt, were not at that early period anticipated; and even up to the close of the late war with the United States of America, little positive inconvenience was experienced from our infant trade being carried on through the sea ports of our sister colony, possessing, as she then did, nearly all the capital by which our mercantile transactions were effected.

"The relative condition, however, of the two colonies has, of late years, essentially altered, and Upper Canada, which, at the close of the late American war, contained about 70,000 souls, has advanced with such rapid strides, that her population may now be computed at upwards of 300,000, a progress to which Lower Canada can make no pretension—that the superior richness and fertility of our soil to that of Lower Canada, with a milder climate, are no doubt among the primary causes of the preference which emigrants from the parent state have given to Upper Canada; and these causes being permanent in their nature, will inevitably continue to accelerate that superiority as a commercial as well as agricultural country, which the vast accession of wealth accompanying the immense emigration of our fellow subjects from the British Isles into this province, will in a very few years most certainly ensure.

"The trade of Montreal is now almost wholly dependent upon Upper Canada, as well with regard to the import of british manufactures as to the export of raw productions for the british and colonial markets. The population of this province is entirely of british origin, by whom all articles of

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British manufacture are regarded as necessary to their domestic comfort and convenience, while more than three-fourths of the inhabitants of Lower Canada are of french extraction, and are accustomed to manufacture for themselves articles of domestic use, which they probably conceive better adapted to their own peculiar habits.

"It is not now to be doubted that Upper Canada in a very few years, by natural causes, as well as by the moral influence of her laws, language, and habits, which are congenial to the british emigrant, will be placed far in advance of the Lower Province, in population as it is now in agriculture and commerce; and, therefore, it cannot be reasonably expected that the upper province will patiently submit to Lower Canada enjoying a very undue proportion of the profits and advantages of a trade to which she contributes comparatively nothing.

"If a canal be constructed, or an improvement made in the navigation of the St. Lawrence below the present boundaries of Upper Canada, she indirectly pays, not only the principal sum expended, but such a perpetual annuity, under the name of tolls, as Lower Canada may think proper to impose.

"Instead of receiving directly the duties levied on our own imports, the proportion to which we are entitled, must be a subject of perpetual and uncertain negociation; and when ascertained, its receipt is subject to the delay and procrastination of public functionaries in Lower Canada. Our exports are likewise subject to a variety of exactions, inspections and other interferences, at the ports in Lower Canada, over which we have no control, and in the imposition and regulation of which we have no voice.

"Under these circumstances we feel the strongest assurance that your Majesty will not fail to recognize the justice of our claim for a port of entry from the sea, where our revenues of customs may be collected, and our intercourse with our mother country carried on without being subject to the enactments of the legislature of a sister colony, in which we are not represented, and which have proved, in many instances, extremely prejudicial to our best and dearest interests, and while we have witnessed with satisfaction the friendly negociation of your Majesty with foreign nations, to

obtain for some of the smaller states of Europe, by your powerful mediation, such natural limits as were deemed essential to their natural security, we feel additional confidence, that it is only necessary to the attainment of our just and natural rights that we should lay before your Majesty the evils to which we are constantly exposed by reason of the line of separation between this province and Lower Canada, having been established, at an early period, so disadvantageously to the future welfare of the upper province.

"We, therefore, entreat your Majesty to take our complaint into your royal consideration, and to cause such an alteration to be made in the eastern boundary of Upper Canada, as will effectually secure the most vital interests of a flourishing, loyal and truly british colony, from all interference by the legislature of another province.

"And your petitioners as in duty bound will ever pray."

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Extract of a despatch from lord Aylmer to lord Goderich, dated Quebec, 12th Octr., 1831.

"I have visited the eastern townships as far as the frontier of the State of Vermont, in the United States. It is extremely difficult to form an estimate of the numbers which the uncultivated parts of the townships will bear; but I think I am within the mark in saying that 500,000 persons might be added to the existing population, with a certainty of raising sufficient agricultural produce for their own subsistence, and for the purposes of commerce necessary for their other wants. But these must be introduced with circumspection, and under due regulations on the part of the colonial government, according to circumstances as they arise, otherwise the additional numbers coming into the country might be greater than the amount of surplus produce on hand, raised by the present inhabitants, would admit of, without incurring the risk of a scarcity.

"The country which goes under the name of the townships, appears to me the most eligible for settlement of any I have yet visited.

"The climate is represented as healthy in a very remarkable degree. The soil fertile, and abounding in forest trees of

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the finest growth, and of the most useful description, with great facilities of water communication by means of rivers and lakes.

"In the visit made by me (soon after the date of my despatch, to which that of your lordship, No. 54, of the 3d August, is the answer) to the river Ottawa as far as Bytown, I had occasion to notice the fine quality of soil on the banks of that river, on the side of Lower Canada, and I have no doubt 100,000 persons might there be located with advantage, in addition to the existing population. It is necessary to observe that calculations of this description must be very vague, and dependent on the nature of the soil, and other circumstances with which we are not yet accurately acquainted. These calculations must be taken more with reference to the number of inhabitants already existing in the country, and the amount of their surplus agricultural produce, for the supply, in the first instance, of the new comers, than with reference to the extent of the particular district of country, or the comparative fertility of the soil. And when it is stated that the line of the Ottawa, on the side of Lower Canada, will bear the additional population above stated, it is only meant with reference to the above principle; for the capabilities of that part of the country are prodigious, although too imperfectly known to admit of any thing like an estimate of them being formed at present. Besides the districts above described, there is in Lower Canada a large range of cultivable land in rear of the settled country on the line of the St. Lawrence, comprised between the rivers Ottawa and St. Maurice. This range of country will become an object for settlement hereafter; but in the first instance, I would suggest the propriety of confining as much as possible the settlement of emigrants to the countries above described; I mean the townships, and that part of the line of the Ottawa which is situated in Lower Canada."

# CHAPTER XXXIII.

Parliament meets—speech—re-expulsion of Mr.Christie for the fifth time—circumstances in connection with this matter—resolutions of the assembly on the governor's speech in closing the last session—views of home government on supply bill of last session, and on the refusal of the assembly to vote a civil list—message to the assembly relating to the expulsion of Mr. C., with various documents—resolutions thereupon—Mr. Phil. Panet promoted to the bench—Mr. Dominique Mondelet succeeds him in the assembly as executive councillor—his seat vacated by vote of the house—despatches relating to Mr. justice Kerr—petition relating to occurrences of 21st May, 1832, at Montreal—petition from county of Two Mountains—message relating to independence of judges bill of last session—assembly resolve to go into and examine events of 21st May, at Montreal—violent petition from the county of L'Islet—petition from Richelieu, St. Hyacinthe, Rouville, Chambly and Verchères—address to the governor relating to legislative council—his answer—call of the house—estimate for the year—indemnity to members—resolutions relating to constitution of the legislative council—address to the king on the subject—his Majesty's answer by message to the legislative council—speaker of legislative council's double vote—Mr. attorney general Stuart's dismissal notified to the assembly—address to the king against Mr. justice Kerr—his dismissal—inquiry into events at Montreal, of 21st May, 1832, and address to the governor relative to lieut.-col. Macintosh—answer—address of the legislative council to the king—varieties—british american land company—Mr. Papineau's remarks relating to it—Mr. Taylor's letter to Mr. Papineau—is committed for it—address to the gover-

nor relating to writ of election to replace Mr. Mondelet--answer—address for Mr. Papineau's letter to the governor, relating to events of 21st May--answer transmitting it—supply bill--lost in the legislative council—vote relating to hon. D. B. Viger--resolutions relating to the governor--address to the king relating to the post-office—prorogation--remarks on the session--varieties, including the roman catholic *Etat Ecclesiastique* of Canada.

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THE provincial parliament* met on the 15th November, lord Aylmer opening the session with the following speech:—

"Gentlemen of the legislative council, gentlemen of the house of assembly,—I have called you together at the period precisely corresponding with that of your last year's meeting, being still under the impression that it is the best suited to

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* The following remarks are from Mr. Neilson's Quebec Gazette, shortly previous to the meeting of the legislature:—

"The legislative council received a great accession of members last spring. The following is a list of those who are to take their seats, viz:—The hon. Messrs. Roch de St Ours, J. Bte. Duchesnay, Peter McGill, John Molson, M. P. dé Sales Laterrière, F. X. Malhiot, Jean Dessaulles, Barth. Joliette, Pierre de Rocheblave, Robt. H. Harwood, and Ant. G. Couillard.

"The returns of members for the assembly will be complete, with the exception of that of the west ward of Montreal, left vacant by the death of Mr. Tracey. The election for Saguenay is to take place in this month. The total of members is now 88. Messrs. Bertrand and Rivard, for Rimouski, were elected just at the close of the last session, the latter gentleman only arriving in time to take his seat. Since that period, fourteen new members have been elected, viz.:—

"Messrs. Christie and Power, for Gaspé; Mr. Bouffard, for Dorchester; Mr. Anderson, for Megantic; Mr. de Tonnancour, for Yamaska; Mr. Poulin, for St. Hyacinthe; Mr. De Bleury, for Richelieu; Mr. Wood, for Shefford; Mr. Rodier, for l'Assomption; Mr. Drolet, for Verchères; Mr. Berthelet, for the East Ward of Montreal; Mr. Bedard, for Montmorenci; Mr. Davis, for Ottawa; and Mr. Vanfelson, for the Lower Town of Quebec.

"Two candidates will come forward for the county of Saguenay—John Malcolm Fraser, esqr., junior, partner of the firm of J. & J. M. Fraser, Seignior of Mount Murray, and Mr. Simon, merchant, of St. Paul's Bay. Dr. Pierre de Sales Laterrière, of London, took steps to come forward; but he has since left the province, it is understood, with a view of returning to England."

the convenience of the majority of the members of the two houses of the provincial parliament.

"It is, besides, peculiarly desirable that the present session should commence at an early period, in order to afford sufficient time for bringing to maturity such measures as were in progress at the close of the last session, and for taking up the consideration of such other measures as the growing wealth and prosperity of the province may suggest.

"The period having arrived for effecting a new adjustment of the proportion to be paid to Upper Canada, of certain duties levied in this province, the commissioners nominated on the part of the two provinces respectively, under the provisions of the act of 3d Geo. IV., cap. 119, have recently met and entered largely into the consideration of that subject, and although the discussion which ensued thereupon was conducted with no less cordiality and good feeling, than with ability and diligence on both sides, I am concerned at having to announce to you that the commissioners have separated without coming to any decision upon the important question entrusted to their management; and having, moreover, differed in regard to the appointment, conjointly, of a third commissioner or arbitrator, it becomes necessary, according to the provisions of the above mentioned act (section 17) to refer the matter to his Majesty's government for the purpose of obtaining the appointment of an arbitrator under the royal sign manual.

"The subject of the currency has been brought under your notice upon more than one occasion during the last few years, but no practical measure having resulted from the consideration of it, I think it necessary to advert to it again; not so much with a view to the adoption of any general and comprehensive system, as to suggest the expediency of providing for the wants of the public by the creation of a metallic currency of inferior value, to replace the small silver coin and copper, now in circulation, the intrinsic value of which, (especially of the latter) is notoriously much below its current value.

"Of the temporary acts of the legislature which are about to expire, I desire to call your particular attention to the following, viz:—

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"1st. An act relating to the fisheries in the county of Gaspé, repealed in part by the 1st of W. IV., cap. 22, which expires on the 1st of May, 1833.

"2d. An act to establish registry offices in the counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missisquoi, amended and extended by the 1st Wm. IV., c. 3, 2d section further extended by 2, Wm. IV., cap. 7, duration till 1st of May, 1833.

"And 3dly, an act to establish boards of health within this province, and to enforce an effectual system of quarantine, which expires on the 1st of May, 1833.

"I think it necessery here to refer to that part of my speech to you at the opening of the last session, which relates to the townships, the increasing importance of that interesting portion of the province—the habits of its population—and their wishes connected with the advancement of their own peculiar interests, are subjects which well deserve the attention of the legislature.

"By the enactment of laws calculated to meet the diversified wants of a mixed population like that of Lower Canada, the general prosperity of the country will be advanced, and the peace and contentment of all classes of his Majesty's subjects in the province, established upon a solid, and lasting basis. The foregoing remarks embrace a truth so obvious, that it may perhaps be thought superfluous to introduce it on the present occasion; but my mind is so deeply impressed with a sense of the importance (I might perhaps add the necessity) of effecting a strict and cordial union of interests and public feeling throughout the province, that I cannot abstain from seizing upon every opportunity which presents itself for promoting the success of an object of such paramount interest, an object which (as it appears to me) it is no less the duty, than it is manifestly the true interest of every inhabitant of Lower Canada to assist in promoting to the utmost of his ability, and in preference to every other consideration.

"Gentlemen of the house of assembly,—The supply bill voted during the last session, which, in consequence of particular circumstances with which you are already acquainted, and in conformity with the instructions received by me from

his Majesty's government, was reserved for the signification of his Majesty's pleasure, has subsequently received the royal sanction. Upon this subject it will be my duty to make an early communication to you by a special message.

"The appropriation of last session for giving effect to the provisions of the act to establish boards of health within this province, and to enforce an effectual system of quarantine, although liberal in its amount, has nevertheless proved inadequate to the demands made upon it. But the excess has not been so considerable as there was reason to apprehend from the prevalence of Asiatic cholera morbus, in most parts of the province, which rendered necessary the creation of no less than ten boards of health with their corresponding establishments, in addition to the expensive establishment at Grosse Isle, I trust, that the excess above alluded to, will be provided for with the same liberality which prompted the original grant.

"I avail myself of this opportunity to suggest the expediency of making provision for the possible necessity for incurring further expense on the same account, during the current year.

"The accounts of the general expenditure of the province, during the past year, are in a forward state of preparation, and will, I trust, be in readiness to be laid before you at the period prescribed by legislative regulation. Should any delay take place in rendering these accounts, it is to be ascribed to the great labour necessary in preparing the voluminous and detailed statements required from the executive branch of the legislature, of all its disbursements of public money.

"An estimate of the expenses of the civil government for the ensuing year, framed according to the instructions of his Majesty's government will, in like manner be laid before you.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—"The apprehensions evinced by the legislature during the last session, by the passing of the act to establish boards of health within the province, and to enforce an effectual system of quarantine, have been but too fatally realised; and the frightful disease, the introduction of which it was the principal object of that act to prevent, has visited the colony with a degree of violence of which there are few examples on record, in other parts of the world.

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"Happily that disease is now considered to have ceased to prevail epidemically in the province; but in the event of its reappearance it may be presumed that the experience acquired during its late visitation will (if those establishments are to be maintained) enable the several boards of health to improve upon the regulations already adopted by them.

"I should be guilty of injustice towards the individuals composing and connected with those establishments, especially the gentlemen of the medical profession, were I to pass over in silence the meritorious services performed by them in the discharge of an arduous, important, and (in many instances) an invidious, duty; the nature of that duty being altogether new in this country, the performance of it was attended with many difficulties in the commencement.—These have been gradually overcome through the united efforts of zeal and experience, and I trust that the services to which I now allude will be duly appreciated by the public, for whose benefit they were undertaken.

"The gratuitous assistance rendered to the poorer classes of society by the medical faculty generally throughout the province, is also entitled to warm commendation.

"Before I take leave of this subject, and close the present address, I must not omit to offer the tribute of praise due in a quarter which I approach with sentiments of the most profound respect—you will, I am sure, have anticipated me when I add, that I here allude to the meritorious exertions of the clergy in general, during that awful visitation, with which it has pleased Divine Providence to afflict this land. In that season of terror and dismay, when even to approach the dwellings of those who were suffering under the influence of the prevailing disease, required with many persons an effort of the mind:—the ministers of religion went courageously forth, and entering the abodes of disease and death, were there to be found, day after day, and night after night, bending over some devoted victim of the fatal malady; and whilst inhaling the tainted breath that issued from his distempered frame, pouring words of comfort and consolation in his ear, and preparing his soul for its passage into another state of existence—such exalted instances of self-devotion are far, very far, beyond the reach of any praise that I have the power to bestow; and I will therefore only add that by their

conduct during the late prevalence of disease in the province, the clergy in general, have acquired new claims upon the love, the gratitude, the veneration and the confidence of the people committed to their spiritual care." Chap. XXXIII. 1832.

The eulogies of his excellency upon the "gentlemen of the medical profession" and in particular upon the "ministers of religion," who had indeed, throughout that trying period, done their duty and no more, were, by the country generally, appreciated as a special piece of viceroyal trumpeting, savouring of the unnecessary and absurd, that had as well have been omitted.

The speech being delivered, the first measure of the assembly was the renewal of its vote, for the fifth time, expelling Mr. Christie, who had again been reelected as member for the county of Gaspé.* Mr. Bourdages, in moving "that the entries on the journals of this house of the 14th February, 1829, 22d January, 1830, 31st January, 1831, and 15th November, 1832, relating to the expulsion of

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* "The certificate of the election of Robert Christie, esquire, for the county of Gaspé, having been laid before the house, on motion of Mr. Louis Bourdages, the entries in the former journals relating to the expulsion of Mr. Christie, were read. It was then resolved, that for the reasons stated in the said entries, the said Robert Christie cannot sit or vote in this house as a member thereof.

Yeas—Messrs. Amiot, Anderson, Archambault, Bertrand, Blanchard, Boissonnault, Bouffard, Louis Bourdages. Bureau, Cazeau, De Bleury, Deschamps, De Tonnancour, Dewitt, P. A. Dorion, Drolet, Fortin, Girouard, Guillet, Lafontaine, Méthot, Mondelet, Morin, Neilson, Nöel, Poulin, Proulx, Raymond, Rivard, Rodier, Thibeaudeau, Trudel, Turgeon, Valois, Vanfelson, Wright, Wurtele, and Young—(38.)

"Nays—Messrs. Baker, Berthelet, Caldwell, Casgrain, Clouet, Davis, Duval, Gugy, Huot, Power, Solicitor General, Taylor and Wood.—(13.)

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Robert Christie, esquire, from this house, be now read," took occasion to observe, according to a report of the debates on the subject in the newspapers of the day, " that Mr. Christie having been duly expelled from the house several times by a considerable majority, it only remained to prove that the Robert Christie now returned was the same Robert Christie who had been so expelled three or four times previously." Mr. Bourdages asserted that he " greatly respected the rights of the electors but still more those of the house, which the electors for Gaspé did not seem either to know or respect—especially as this obnoxious man had contrived or instigated a fresh contempt, a new insult to the house, which demonstrated the hatred, the desire of revenge he entertained, by the absurd project to which he had avowedly given rise for the dismemberment of the province, and the annexation of Gaspé to another province," (New Brunswick.) This project had, indeed, been started in the course of the previous summer, and was entertained in Gaspé from a feeling of injustice done them in the person of their representative expelled, as they deemed it, without sufficient cause at the outset and still more wrongfully in the repetition, and their practical foreclosure from the legislature during four successive years by his reexpulsion without any fresh cause for it. The notion just started in Upper Canada, of annexing Montreal to that province as previ-

ously mentioned, following immediately upon that suggested in Gaspé, of seeking for annexation to New Brunswick, was exceedingly distasteful to the universality of the French origin population of Lower Canada, as a project to clip their wings and reduce them to a perpetual state of pupilage and incapacity for national independence. Chap. XXXIII. 1832.

Mr. Neilson is represented to have remarked in the course of the debates on the subject, "that there could not exist any right in any part of the province, to send any one to this house who was notoriously objectionable to it. It was notorious"—he said—"that Mr. C. had been guilty of a contempt of the house, by endeavouring to influence its members, and threatening them with punishment if they did not listen to the dictates of the executive of the time. He (Mr. N.) considered that the contempt could never be purged until the individual comes, submits to the judgment of the house, and acknowledges his guilt, and it would then be for the house to determine whether they would remit the penalty and pardon the offence." In these views of the subject the majority joined, but several professional men of eminence and high standing in the house and with the country, including Messieurs Andrew Stuart, Gugy, Duval, Ogden, Huot, strongly expressed themselves against the doctrine, as unconstitutional and subversive of the rights and franchises of the subject. Mr. Christie having, as he believed, committed

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nothing of the kind imputed to him, nor any breach of the privileges of the assembly, or other violation of the laws or constitution of his country, neither made nor contemplated any acknowledgment of guilt, none having been intended by him, and would not therefore seek pardon for an offence that never had existed but in the imagination of those who had accused, and condemned him untried and unheard. We shall presently have occasion to revert again to this matter.

There was nothing remarkable in the address to his excellency, in answer to his speech. In thanking the assembly for the address, he merely observed that it encouraged the hope which he ardently cherished, that the labours of the present session might be productive of measures calculated to advance the substantial interests of the colony.

Immediately after delivering the address, the house resolved itself into committee to take into consideration his excellency's speech at the close of the last session, which they formally condemned as a censure of the proceedings of the house, protesting against it as a dangerous attack upon the rights and liberties of his Majesty's subjects in this province. On the following day, his excellency sent down by message to the assembly the views of his Majesty's government on the supply bill of the previous session, the remarks upon which, by his excellency, and upon the failure of the proposed civil list, in proroguing the legislature

had given rise to this vote of censure by the assembly. It was as follows:—

"The governor in chief has received his Majesty's commands to signify to the house of assembly, that his Majesty has been pleased to assent to the bill passed in the last session, and subsequently reserved for the signification of his Majesty's pleasure, intituled, "An act to make provision "for defraying the civil expenditure of the provincial govern- "ment for the current year."

"The governor in chief is further commanded to observe, that the money granted by this bill having been voted by the house of assembly for various specific purposes, and the terms of that appropriation not having been stated either in the bill of supply or in any other legislative act, his Majesty has been left without the means of ascertaining the real objects and effect of the law to which his assent has been required. The governor in chief has therefore received his Majesty's instructions to decline the acceptance of any future bill of supply granting money for specific purposes, unless it shall either contain or be succeeded by a distinct bill, containing a statement of the particular object to which each part of the grant is to be appropriated, and of the precise sum to be applied to each of these objects.

"In conveying to the house of assembly his Majesty's thanks for the grant they have made for the services of the current year, the governor in chief in obedience to his Majesty's commands, remarks, that it is only from the bill of supply of the last session, that the decision of the house upon the propositions made to them by the governor in chief in his messages of the 5th December and the 21st January last can be collected; and that as the house did not deem it right to return any answer to those communications explanatory of their reasons for declining to comply with his Majesty's demands on their liberality, his Majesty can only infer that those demands have not been thought worthy of any other notice than that which is implied in the peremptory and unqualified rejection of them—under such circumstances, his Majesty will not revive the discussion of the question of the civil list, but will provide for those charges out of those funds which the law has placed at his own dis-

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posal, being persuaded that he will thus best consult his own dignity and most effectually promote the good understanding which he is ever anxious to maintain with the house of the general assembly of this province."

The reader will not fail to remark the discrepancy between the doctrine in the present despatch, which required that any future bill of supply that might be passed granting money for specific purposes, should contain a statement of the particular object to which each part of the grant is to be appropriated, and of the precise sum to be applied to each of those objects, and that which a few years before had been insisted upon on the part of the executive, as unconstitutional and subversive of the government, vizt. :—the pretension of the assembly to specify by *items* the several salaries voted to the several public functionaries of the government, and which the assembly having relinquished, the colonial minister now adopted. Thus ended the long and fruitless discussion between the executive government and the assembly concerning the civil list.

With the foregoing message his excellency also, at the same time, transmitted another stating that—

" In obedience to the king's commands signified through viscount Goderich, his Majesty's principal secretary of state for the colonial department, the governor in chief transmits to the house of assembly, copies of the undermentioned documents :—

1.—" A despatch from viscount Goderich, addressed to the governor in chief, dated Downing street, 26th Jany., 1832, respecting the expulsion of Robert Christie, esquire,

from his seat in the house of assembly, as member for the county of Gaspé.

2.—"Copy of a letter from Robert Christie, esquire, addressed to viscount Goderich, dated Quebec, 10th October, 1831.

3.—"Copies of resolutions adopted at meetings of the freeholders and electors of the county of Gaspé, held at Percé, Douglastown, St. George's Cove, Point St. Peter, Malbay and Cape Cove, to take into consideration measures for maintaining the elective franchise and the right of the freeholders to be represented in the legislature of the province.

"In compliance with the instructions conveyed in the despatch of viscount Goderich, (a copy of which is now transmitted,) the governor in chief signifies to the house of assembly, his Majesty's earnest desire that they would take into their early consideration the complaints of the inhabitants of the county of Gaspé. His Majesty will not permit himself to doubt that if the facts be really such as are stated in these resolutions, the house will rescind the vote by which Mr. Christie is said to have been excluded from his seat. The efforts which his Majesty has made to promote to the utmost in his power the welfare of his faithful subjects in Lower Canada, and to place on the most secure foundation the rights of the house of assembly of that province, at once entitle and encourage him to expect, that the house will receive with due attention a suggestion which is prompted by his anxiety that every class of people of Lower Canada should enjoy a full participation of the privileges of its free constitution."*

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* "Downing street, 26th January, 1832.

"My lord,—"I have received from Mr. Robert Christie, a letter dated 10th of October last, enclosing copies of resolutions passed by the inhabitants of the county of Gaspé, at public meetings convoked for the purpose of taking into consideration certain grievances under which they conceive themselves to labor, by the exclusion of Mr. Christie from the seat in the house of assembly of Lower Canada, to which he has been on five successive occasions elected.

"I am unwilling to assume that the house of assembly have adopted so strong a measure as the expulsion of one of its members, without sufficient grounds. As guardians of the constitutional rights of all classes of the king's subjects within the province of Lower Canada, that house must be supposed to be peculiarly jealous of those

This communication threw the house into a fever, and produced a string of resolutions

rights which they are thus accused of having infringed. Least of all can I consider it probable that after the well known conflict between the electors of the county of Middlesex and the house of commons, and the vote of the 3d of May, 1782, by which that great constitutional question was finally decided, the house of assembly would maintain, that any person could become ineligible as a member of that body by the mere force of a former vote of expulsion; or in consequence of any breach of privilege upon which any such preceding vote may have been founded. It is alleged in these resolutions, that the supposed disqualification of Mr. Christie arises from an offence imputed to that gentleman, against the privileges, not of the present, but of a former assembly: a statement which still further enhances the improbability of the representation.—Under such circumstances, his Majesty's opinion upon the subject is unavoidably suspended; his Majesty, however, acknowledges the right of Mr. Christie, in common with all his subjects, to such assistance as his Majesty can afford for the redress of any grievances under which he may labor. Your lordship will, therefore, call on that gentleman for a copy of his letter to myself, of the 10th of October last, and of the resolutions enclosed in it. You will communicate to the house of assembly copies of those documents and of my present despatch; and you will signify to that house his Majesty's earnest desire, that they would take into their early consideration the complaints of the inhabitants of the county of Gaspé. His Majesty will not permit himself to doubt, that if the facts be really such as are stated in these resolutions, the house will rescind the vote by which Mr. Christie is said to have been excluded from his seat.

"The efforts which his Majesty has made to promote to the utmost of his power the welfare of his faithful subjects in Lower Canada, and to place on the most secure foundation the rights of the house of assembly of that province, at once entitle and encourage him to expect, that the house will receive with due attention a suggestion which is prompted by his anxiety that every class of the people of Lower Canada should enjoy a full participation in the privileges of its free constitution.

"I have the honor to be, &c., &c., &c.

(Signed) "GODERICH."

"Lt.-gen. lord Aylmer, K. C. B., &c., &c., &c."

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Quebec, 10th October, 1831.

"My lord,—I have the honor, in compliance with the request of my constituents, the inhabitants of the county of Gaspé, to forward for your lordship's information, the enclosed copies of resolutions passed at public meetings convoked for the purpose of taking into consideration the course proper to be taken for relief from certain grievances under which they labour, and against the unconstitutional proceedings of the assembly in excluding them from the provincial

expressive of its indignation, and concluding with a vote "that the letter of the said Robert

legislature. Copies of those resolutions have also at their request been furnished in August last, to his excellency the governor in chief, lord Aylmer.

"I have the honor to be, my lord,

"Your lordship's most obedient servant,

(Signed) "ROBERT CHRISTIE."

"To the right honorable viscount Goderich,

"One of his Majesty's principal secretaries of state."

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"At a public meeting held at Percé, 29th June, 1831, the following resolutions being moved, were unanimously adopted:—

"That by law and the constitution of this province, the freeholders of the county of Gaspé have the right of being represented in the provincial legislature, and of choosing freely and without restriction, a person to represent them in the assembly of this province.

"That it belongs solely and exclusively to the freeholders and electors of this county, to judge of the person most proper to represent them in the said assembly, and that it is their indubitable right to elect for this purpose any person not disqualified by law, in whom they may place their confidence.

"That the assembly of the province have violated the freedom of election in this county, and unconstitutionally attempted to restrict the freeholders thereof in the free and constitutional choice of a member to represent them in the said assembly, by expelling, without cause, at two successive sessions of the late, and again at the last session of the present provincial parliament, Robert Christie, esquire, the representative of the county.

"That the county of Gaspé has been since 1828, and for three successive sessions of the legislature, unrepresented, owing to the vacation of the seat in the assembly, of their said representative, whom the electors for the county have now for the fifth time elected as such; and been excluded from all participation in the legislature, and in the enactment of the laws passed therein during that period; and are by the said assembly virtually disfranchised, and deprived of their rights as british subjects.

"That the disfranchisement of the county by the house of assembly, even admitting the grounds assumed by it, as a pretext for the measure to be matter of fact, is unwarrantable; the pretended causes for which the county is disfranchised, being in the opinion of this meeting frivolous.

"That it is the opinion of this meeting, that the late assembly could not constitutionally vacate the seat of the member representing this county, for an alleged breach of the privileges of a former assembly, or for opinions relating to subjects of a political nature, said to have been entertained by him, nor for advice supposed to have been given; the same (if ever it were given) being in a quality distinct from

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Christie and the resolutions stated to have been adopted by certain electors of the county of Gaspé, transmitted as before mentioned, be expunged from the journals of this house."

A vacancy having occurred in the bench at Quebec, in the decease of Mr. justice Taschereau, his brother-in-law, Mr. Philippe Panet, in consideration it was supposed of his political services to the executive, was, promoted to the vacant judgeship, by which his seat in the

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that of representative of this county, and before he became such; and for which, as matters of opinion, he ought not under any circumstances to be accountable to the assembly.

"That it is the opinion of this meeting, that in common justice the matters imputed to the person representing this county, by the assembly, as constituting an offence, ought to have been communicated to him for his observations and answer, and a hearing granted; and that the assembly by refusing to hear and permit him to examine openly and publicly at the bar of the house, those who had been privately examined before a committee without his privity, and who had given the information made use of as a pretext for vacating his seat, have violated the plainest principles of justice.

"That the present assembly, by vacating the seat of the member representing this county, under pretext of the previous unconstitutional proceedings at two sessions of the last assembly with respect to him, have attempted to disqualify by a vote of that house alone, and thereby illegally render ineligible a subject of his Majesty to a seat therein; a power, if there were cause for the exercise of it, appertaining solely to the three branches of the legislature; and that the assembly by such a proceeding, have set up their own unconstitutional vote as tantamount to a law of the land.

"That it is the opinion of this meeting, that from the spirit which has characterised the proceedings of the house of assembly, in the matter under consideration, the freeholders and inhabitants of the county, cannot entertain a hope that justice and redress of grievances are to be obtained from that house, it having given ample proof of a disposition rather to aggravate, than to relieve them of their grievances.

"That the disfranchisement of the freeholders of the county, and the privation of their rights as british subjects by the said assembly, are an intolerable grievance, to which as free men they ought not to submit, but seek redress from the supreme authority of the empire.

There also were a few other resolutions, but they related solely to local matters, the above being all that were passed in connection with this affair.

executive council and assembly were vacated. His place in the executive council was filled up



☞ The following are the resolutions adopted by the house of assembly in reference to the governor's message to it, transmitting that of his Majesty with the resolutions of the freeholders of Gaspé, as given in the four preceding pages:—

"That it is the opinion of this committee, that this house duly appreciates his Majesty's acknowledgment of the right of all his subjects to such assistance as he can afford, for the redress of any grievances under which they may labour; but that they have seen with regret, that his Majesty has been advised to act upon his gracious intentions in this respect, in a case where the privileges of this house are concerned.

"That it is the opinion of this committee, that this house, in expelling Mr. Christie, exercised a privilege frequently exercised by the house of commons, and by the representative bodies in the colonies, and which is necessary for the freedom of its votes and proceedings.

"That it is the opinion of this committee, that this house is the sole judge of the cases wherein it ought to exercise this privilege, and its decision therein cannot of right be questioned by any other authority.

"That it is the opinion of this committee, that the resolutions transmitted with his excellency's message of the 21st inst., purporting to be resolutions passed at various meetings of the freeholders and electors of the county of Gaspé, are false, scandalous and malicious libels on this house, and on the government of this province, and form no grounds for the reconsideration of the expulsion of Mr. Christie for a high contempt of this house.

"That it is the opinion of this committee, that the letter of the said Robert Christie, and the resolutions stated to have been adopted by certain electors of the county of Gaspé, transmitted as before mentioned, be expunged from the journals of this house.

"On the question of concurrence being put on the said resolutions.

"The house divided; and the names being called for, they were taken down, as followeth:—

"Yeas—Messieurs Amiot, Archambeault, Bedard, Berthelet, Bertrand, Blanchard, Bouffard, Louis Bourdages, Rémi Séraphin Bourdages, Bureau, Cazeau, Clouet, Cuvillier, De Bleury, Deschamps, De Tonnancour, De Witt, Drolet, Duval, Fortin, Guillet, Huot, Knowlton, Lafontaine, Larue, Leslie, Masson, Mousseau, Neilson, Peck, Poulin, Quesnel, Raymond, Rivard, Rodier, Scott, Simon, Thibaudeau, Trudel, Turgeon, Valois, Vanfelson, Wurtele and Young.—(44.)

"Nays—Messieurs Baker, Caldwell, Casgrain, Heriot, Hoyle, Power, Solicitor General, Stuart, Taylor and Wright.—(10.)

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Speaking of Mr. Christie's expulsion, the New York *Commercial Advertiser* has the following paragraph:—

"The provincial parliament of Lower Canada commenced its session at Quebec last Thursday week. The first business after the

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by Mr. Dominique Mondelet, a young member and but recently returned for the county of

organization of the house of assembly, as a matter of course, was the expulsion of Mr. Christie, again returned for the district of Gaspé. This we believe is the seventh or eighth time that Mr. Christie has thus been expelled. The only charge, we believe, ever made against him, was the fact of his having, as chairman of the quarter sessions, advised the earl of Dalhousie to omit the names of certain political opponents from the commission of the peace in his district. The liberals of the house, were indignant that citizens should be proscribed, and thrust out of office for opinion's sake, and have never allowed the offending member to sit in parliament since. Mr. Christie ought to come over into this country. The acts branded as offences in Canada would be the surest passports to favor with the powers that be in this republic, where, in the language of our governor elect, we hold that, '*to the victor belong the spoils of the vanquished*,' and where we do not hesitate '*boldly to practice what we preach*.'"

"In the course of the debate some members of the popular party asserted that Mr. Christie had rendered himself infamous by his political conduct, yet insinuated that if he would purge himself of his crime, by acknowledging and apologizing for his error, in the face of the house, his re-admission to a seat might be considered. Could Mr. Christie be so weakly ambitious of senatorial honors as to swallow this bait, we suspect that he would meet with a similar reward to that which the Hermit received, when, as the story relates, he had said mass to the devil. After he had made his humiliation, every cloven hoof of the *clique* would be raised to spurn him."—*Quebec Mercury, 8th December*, 1832.

"TO THE INDEPENDENT ELECTORS OF THE COUNTY OF GASPÉ.

"Gentlemen,—The renewed vacation of the seat of your representative, now for the fifth time by the assembly, solely on the strength of a vote of exclusion by the late house in the session of 1828-9, for an imputed breach of its privileges, without any new grounds for the measure, again evinces the pretensions of a majority in that body to hold their vote alone, equivalent to an act of the whole legislature, and to supervene by means of it, the established law of the land, and all constitutional precedents to be found in the journals of the british house of commons, applicable to the case.

"The despatch, however, of the 26th January last, from the colonial minister, lord Goderich, to the governor in chief, provoked by your resolutions of June and July, 1831, gives you the light in which both the proceedings of the assembly and your opposition to them are viewed by his Majesty's government in England; and you can have no difficulty in judging which of them, in the opinion of that high authority, are most in accordance with the acknowledged principles of the british constitution.

"After that despatch, it is scarcely to be expected a writ of elec-

This appointment of a young gentlemen of no parliamentary experience, though tion will again issue to supply a vacancy now virtually declared to be unconstitutionally occasioned. It would be to acquiesce in a measure condemned by the home government, and a practical assertion of its constitutionality, contrary to the principles laid down in that important public document, which, I apprehend, the provincial administration will not think it necessary to hazard. But, lest, by any possibility a writ should go out, I think it well thus early to submit to your consideration the expediency of adopting a new course—while you have the signal advantage on your side, which the despatch affords you, by his Majesty's express commands, of recording on the journals of the assembly, your sense of its proceedings as expressed by your resolves of last year, with the king's opinion on the subject—and of returning some other representative. Such at least, if it can have weight with you, is my own sincere desire, and the best course, I imagine, that can now be followed.

"Disfranchised and debarred, in addition to previous grievances of long standing, for the last five years, under the most unwarrantable pretexts, by a party that acts as if the constitution were made exclusively for it, from the assembly of Lower Canada, you have a right to demand emancipation from its jurisdiction, and by perseverance will no doubt succeed in releasing yourselves from its thraldom.—Interested in the welfare of the district of Gaspè—a freeholder in it, and as such one of yourselves, I will cordially and indefatigably cooperate with you for the attainment of this desirable purpose. But under all the circumstances, I think it due to you, and accordingly have determined to withdraw, if a writ should issue for another election, in consequence of the recent re-expulsion.

"Whether any measure will be adopted to prevent the recurrence of an abuse under which you have suffered—and that makes it a question, if the constitution, in the hands in which it is, be not rather an engine of despotism, than the palladium of the people's rights—the refuge and the protection of the oppressed, remains to be seen;—but it is certain that hitherto, you, as a county, have felt none of its advantages—that if you do feel it, it is rather in a baneful, than beneficial sense;—in the neglect of your just claims;—in the weight of its power;—and in the privation of those sacred and unalienable rights of englishmen, of which you have been despoiled.

"Gentlemen—In taking leave of you, I have to return you my heartfelt thanks for the confidence with which I have been so much honored by you, and the steadiness with which, under most novel and most trying circumstances you have supported me. The contest for principles in which you have been engaged, has at length been crowned with success, and I may now, without compromising your rights or my own cause, consistently retire.—With whatever opprobrium, for mere matter of opinion or supposed opinion, in reference to politics only, it has been attempted by a spirit of party and of agitation to asperse the representative of your free choice, the unprejudiced

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of promising abilities, gave offence to the assembly, and it was determined to vacate his seat in that house in consequence of it. No objection, it is to be observed, had been started against Mr. Panet's acceptance of the office; on the contrary, it had been rather favourably taken than otherwise by the assembly, which now, however, viewed the matter in a different light. It was accordingly "resolved, that Dominique Mondelet, esquire, one of the members of this house for the county of Montreal, having accepted office as one of his Majesty's executive councillors in this province, falls within the case provided for by the first of the resolutions of this house of the 15th day of February, 1831, relating to members accepting offices of profit and becoming accountable for public money, and that the seat of the said Dominique Mondelet, esquire, in this house is consequently vacant.* A writ for the election

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will bear in mind, that to have been *six times successively re-elected by the independent* County of Gaspé, is an ample answer and refutation of it. The injury and injustice done him have indeed been great, but they will be softened in the recollection he will ever gratefully entertain of the public spirit and constitutional perseverance of his constituents, and in the many proofs throughout the struggle, of the generous, and disinterested regard he has experienced from them, and which he cannot too deeply feel nor too publicly avow.

"Ristigouche, 24th Nov., 1832." "ROBERT CHRISTIE."

* The division that took place on Mr. Bourdages' motion to declare Mr. Mondelet's seat vacant was as follows:—

"Yeas—Messrs. Amiot, E. Bedard, Bertrand, Blanchard, Boissonnault, Bouffard, L. Bourdages, Cazeau, De Bleury, Deschamps, De Tonnancour, De Witt, P. A. Dorion, Drolet, Fortin, Girouard, Guillet, Gugy, Huot, Lafontaine, Masson, Morin, Mousseau, Raymond, Rivard, Rodier, Scott, Simon, Thibaudeau, Turgeon, Valois and Vanfelson.—(32).

"Nays—Messrs. Anderson, Archambault, Baker, Berthelet, Cald-

of a member in his place, for the county of Montreal, was accordingly ordered.

well, Casgrain, Clouet, Cuvillier, Knowlton, Leslie, Neilson, Peck, Power, Quesnel, Quirouet, Ogden, Stuart, Taylor, Trudel, Wood, Wright, Wurtele and Young.—(27.)

The following remarks on this subject, by Mr. Neilson, appeared in his Quebec Gazette, at the time:—

"The house of assembly, on Saturday night, after a long debate, resolved, yeas 32, nays 27, that the seat of the hon. D. Mondelet, member for the county of Montreal, had become vacant, by his accepting the place of member of his Majesty's executive council for the province.

"This deduction is founded on resolutions passed on the 15th Feb. 1831, adopted on the repeated failure since 1825, of a bill, similar to provisions of the british act, 4 and 5, Ann, cap. 8, declaring the election of any member accepting "any office of profit from the crown, during such time as he shall continue a member, void," but that he shall be capable of being again elected.

"The hon. M. Panet was exactly similarly circumstanced, under the resolution of the 15th Feby., 1831, during the last session, but no objection was taken against his seat; his appointment was indeed loudly applauded by those who have objected to Mr. Mondelet's appointment. It was, however, now alleged by some, that the place of executive councillor is an office of profit, and comes under the rule; and it has been so determined; although it was admitted on all hands, that he neither derives, nor can derive any emolument whatever from the office, the £100 allowed to executive councillors being only paid to such members of that body as are enabled to sit in the court of appeals, which it appears by his appointment, he is not.

"In truth, then, Mr. Mondelet's seat is vacated, not because he has accepted an office of profit contrary to the resolution of the house, but merely because, like Mr. Panet, he has accepted an office from the crown, without any salary or emolument whatsoever, it being the undoubted prerogative of the crown, to create as many such offices as it deems couvenient, and bestow them on whom it pleases.

"Some members, we are told, alleged as the ground of their votes, that Mr. M. might be corrupted, not by a promise of an office of profit, for if that had been proved he would have been within the rule: but by the expectation of an office or claim to an office, which might arise from the acceptance of this appointment.

"It would certainly be something new under the sun, if the election of a representative of the people were to become void, because he may have a reasonable expectation or claim to an office under the crown, which *by law*, at least, is the case of all who enjoy public confidence, and are the most capable of filling an office, in every part of his Majesty's dominions.

"Some of the members, all uniting in complimenting Mr. Mondelet, expressed an opinion that he would be re-elected—others that he would not; at all events he is *punished* for doing what he could not

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An address was sent up early in the session, praying his excellency to lay before the house copies of any despatches he might have received relative to the charges preferred against Mr. justice Kerr. In answer to this, he transmitted a message with the following extract from a letter he had received from viscount Goderich:—

"In compliance with the application of the house of assembly regarding the case of Mr. justice Kerr, and in obedience to the instructions of viscount Goderich for his guidance in the event of any such application being made to him by the house of assembly relating to the case of Mr. justice Kerr, the governor in chief now communicates to the house an extract from a despatch from visconnt Goderich, dated Downing street, 12th April, 1832.

"Castle of St. Lewis, Quebec, 23d Nov., 1832."

"Extract from a despatch from viscount Goderich, his Majesty's principal secretary of state for the colonies, to his excellency the governor in chief, dated 12th April, 1832:—

"'With reference to the petition of the house of assembly for the suspension of Mr. justice Kerr, I entirely approve your lordship's refusal to accede to that request. I cannot, however, extend that approbation to the grounds assigned for that refusal, in your address to the house of the 17th of February last. Your lordship there remarks "it had become your duty as the king's representative, to consider the judges in the light in which his Majesty, in accordance with the views of the legislative council and house of assembly, was desirous of seeing them placed," that "you found yourself under the necessity of declining to suspend Mr. justice Kerr from the exercise of his functions until the end of the next

possibly know was wrong, for doing precisely what Mr. Panet was praised for doing last winter, by several of those who voted for his losing his seat; punished by losing his seat, exposed to unfavorable impressions or by being subjected to trouble, expenses and disagreeableness of an election, which every one is, in some measure invited by the vote of the assembly to contest, and which naturally will be contested, in the spirit which has lately been prevalent in Montreal."

session of the provincial parliament, upon the single address of the house of assembly; nevertheless, being at all times perfectly disposed, as far as your own sense of duty will permit, to meet the wishes of the house, and with the view of conforming, on the present occasion, as nearly as circumstances would permit, to the provisions of the act for securing the independence of the judges, now awaiting the royal sanction, you should be prepared to suspend Mr. justice Kerr from the exercise of his functions, until his Majesty's pleasure was known, upon receiving a joint address to that effect from the legislative council and house of assembly."

"From the preceding expressions, as well as from the series of resolutions adopted by the house of assembly, I infer that the charges of that house against Mr. Kerr, though preceded by an enquiry for their own satisfaction, were not preceded by any citation or hearing of the accused party. Had there been any evidence of which he was cognizant, your lordship would, of course, have felt it your duty to ascertain how far that evidence supported the accusations, and you would have transmitted the whole of the proceedings to myself. From the same sources of information I deduce the further inference that your lordship was prepared to act in the case of Mr. Kerr, upon the same principle as that which was applied to the case of Mr. Stuart, namely, that the condemnation of a public officer by the legislative body, renders his suspension by the executive government of the province, a matter not of choice but of duty or necessity—it being, however, required, in the case of the judge, that the two houses should concur in the application. If I am mistaken in the inferences I have thus drawn, either as to the nature of the proceedings against Mr. Kerr, or as to the principles on which your lordship acted, the following remarks will be misplaced; but my error must be attributed to the absence of more complete explanations. If, on the other hand, my assumption be accurate, then I must enter the most distinct and solemn protest against the principle by which your lordship's decision was guided. If the two houses, or if either house, after giving to the officer accused, full notice of the charges against him, complete access to the evidence on which they rest, and opportunity of cross-examining the witnesses, for making his own defence, and for

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supporting it by proof, shall then, on a review of the whole subject, petition the governor for his suspension, I admit that, in such a case, the application should not be rejected, except upon the most grave consideration and the most clear and satisfactory grounds. But if, without these preliminaries, such a demand be made, I conceive it to be your lordship's bounden duty to abstain from yielding to it, until you have given the accused officer the opportunity of self-defence which his accusers had refused him, and have formed an independent judgment upon the whole case. I cannot but feel strongly that the royal authority is subjected to great indignity when her Majesty's representative is thus invited and consents to act as the mere ministerial agent of either house of general assembly, by giving effect to resolutions against the king's officers, adopted without observing the ordinary and established forms of justice. In the very recent case of the proceedings, in the imperial parliament, against Sir Jonah Barrington, the judge was afforded the most ample latitude of defence, at the bar of both the house of lords and of the house of commons, not only before they addressed his Majesty for his removal, but before either house adopted any resolutions inculpating his character. His Majesty as guardian of the reputation and interests of all persons engaged in his service, is entitled to demand that the legislative bodies of Lower Canada should restrain the exercise of their powers within the limits which parliament, in deference to the immutable laws of justice, has prescribed to itself in similar cases. Should any further application be made to your lordship by the house of assembly in the case of Mr. Kerr, you will answer them hy communicating a copy of so much of this despatch as relates to that subject."

The message and "the proceedings of the house, in the sessions preceding the present, were referred to a committee of five members to report the facts and their opinion thereupon," the complainant against Mr. Kerr being one of the committee.

An exceedingly long and elaborate petition was presented, soon after the opening of the session, complaining of grievances, and in particular of the unhappy occurrences at Montreal, on the 21st of last May. The governor himself was spoken of in it in no measured terms; and lieut. col. Macintosh whom, as we have seen, notwithstanding the annoyances to which he had been subjected, the laws of the country, a grand jury, and the judges of the land had duly exonerated of all blame, was treated as a murderer. "We recognize"—said the petitioners—"in no tribunal on earth, except a petty jury, the right of declaring that man innocent of the crime of murder who has taken away the life of his fellow creature. The man"—said they—"whose will it was that three citizens should be killed, and whose death warrant (whether issued with or without sufficient cause) was executed, is known.—That man is lieut. col. Macintosh, and he is now absent on leave. He has left the province. The judges before whom he was brought, after being arrested on a charge of wilful murder, have set him at liberty, refusing to bind him over by the feeble tie of a bail-bond, at the very moment when, as if for the purpose of advising him to fly, they told him that another grand jury might find a new bill of indictment against him. If there was ignorance or collusion throughout the whole of the proceedings which followed that fatal day, and which appear to have induced this flight from the coun-

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try, on the part of one who, after having scattered death and destruction around him, has never been confronted with those who accuse him of having done so maliciously and deliberately—on the part of one who having slain men, fled from the country without waiting for an opportunity of proving publicly that his conduct was justifiable because he had been compelled to act by necessity and considerations of public advantage, what refuge can your alarmed petitioners find?" Need it be said that it fully appeared, however, by the papers called for and laid before the assembly pursuant to this petition, that lieut. col. Macintosh had not fled as represented, to evade justice, but that having asked leave, "on very urgent private affairs," it had been granted him, but not until all legal proceedings affecting him had been disposed of, and his conduct as an officer also approved of by the commander of the forces.

Another petition, from the county of Two Mountains, complaining also of a multitude of grievances was about the same time presented and referred to a committee of inquiry. These two petitions were the ground work of the famous ninety-two resolutions, as passed at the ensuing session. The bill passed at the previous session relating to the independence of the judges, and which had been reserved for the signification of the king's pleasure, had not been approved of. The reasons of its rejection will appear in the following despatch

from viscount Goderich, of the 10th April, 1832, laid before the assembly by message of the governor general to that house, of the 26th November, 1832:—

" In communicating to the house of assembly a copy of a despatch addressed to him by viscount Goderich, dated the 10th of April, 1832, respecting the bill passed on the 20th of January last, intituled, " A bill to incapacitate the judges in this province from sitting or voting in the executive and legislative councils, to secure the independence of the judges in this province, and for other purposes therein mentioned," the governor in chief has been commanded to acquaint the house of assembly, that his Majesty is not only prepared, but is most desirous to co-operate with them in the enactment of a law, which should render the tenure of the judicial office dependent on the good behaviour of the judges, and the salaries independent on the future votes of the house of assembly; and that his Majesty does not object to the erection of the legislative council into a tribunal for trial of any offences which the judges may be charged with committing in the execution of their office; but that his Majesty cannot authorize the governor in chief to assent to any act for establishing judicial independence, containing any enactment or declaratory of any principle of law foreign to that subject.

" Castle of St. Lewis, Quebec, 26th Nov., 1832."

" Downing Street, 10th April, 1832.

" My lord,—I have received your lordship's despatch, dated the 26th January last, enclosing the copy of a bill passed by the legislative council and house of general assembly of the province of Lower Canada, on the 20th of that month, intituled, " An act to incapacitate the judges in this province from sitting or voting in the executive or legislative councils, to secure the independence of the judges in this province, and for other purposes therein mentioned."

" In my despatch of the 8th of Feby., 1831, No. 22, I directed your lordship's attention to the advantages to be anticipated from transfering to Lower Canada, that part of the law of England, by which the tenure of the judicial office is

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made to depend, not upon his Majesty's pleasure, but upon the good conduct of the judge; and I authorized you in the name and on the behalf of his Majesty to assent to the bill which I anticipated would be passed for that purpose; observing that it was an essential condition of this arrangement, that an adequate and permanent provision should be made for the maintenance of the judges; and I expressed my satisfaction that the repeated assurances of the house of assembly precluded the possibility of any objection being made to this part of the proposal. I had the honor to convey to your lordship his Majesty's further commands, that you should communicate to the legislative council and assembly, his Majesty's settled purpose to nominate, on no future occasion, any judge as a member either of the executive or of the legislative council of the province; the single exception to that general rule being, that the chief justice for the time being, would be a member of the legislative council.

"The bill which your lordship has transmitted, renders the tenure of the judicial office dependent on the good behaviour of the judge; and if passed into a law, would, therefore, to that extent accomplish his Majesty's wishes. But it does not make a fixed and permanent provision for the maintenance of the judges. It enacts that their salaries and retiring pensions, "shall be taken and paid out of the proceeds of the casual and territorial revenue, and the revenue now appropriated by acts of the provincial parliament for defraying the charges of the administration of justice, and the support of the civil government, and out of any other public revenue of the province which may be or come into the hands of the receiver general." Passing over for the moment, the question of the right of the house of assembly to dispose of the funds of which a specific mention is made in this passage, I observe that the enactment itself amounts to nothing more than a declaration that the judges shall be paid out of those collective funds of which the house of assembly have, or claim to themselves, the right of appropriation. Such a provision will not supersede the necessity of an annual vote of the house to sanction the payment of the judges salaries, nor authorize the governor to issue his warrant to the receiver general for those sums in the event

of such a vote being withheld. The popular branch of the legislature, would, therefore, retain the power of diminishing the official incomes of the judges, or of stopping the payment of them altogether, and would thus exercise an influence over the Bench, subversive of that sense of independence on all parties in the state, so requisite in the members of a body whose high office, it is to ascertain, and protect the rights of all with strict impartiality. The British Parliament have studiously divested themselves of all such means of controlling the freedom of the judges.

"During the last two reigns, and in the reign of his present Majesty, six acts of parliament have been passed augmenting the salaries of the judges of England. I refer to the 49th Geo. III., cap. 127; the 53d Geo. III., cap. 153; the 6th Geo. IV., cap. 82, 83, 84, and the 1st Will. IV., cap. 70. By each of these acts the grants made for the maintenance of the judges are declared to be "charged and chargeable upon the Consolidated Fund next in order of payment," to certain specified charges, "*but with preference to all other payments whatsoever.*" It is only over the surplus of the Consolidated Fund which remains after the judges' salaries have been paid in full, that the house of commons exercises its privilege of making an annual appropriation; and that surplus is of such amount that no contingency which it is of any practical importance to calculate, could endanger the security of the pledge thus given for the independence of the judges on the popular branch of the legislature. If this entire exemption from all dependence on the house of commons be a necessary security for the impartial discharge of their duty by the judges of England, a correaponding security is certainly not less necessary in Lower Canada. The population there being divided into two classes differing from each other in national origin, in language, religion and local customs; and one of those classes enjoying in the house of assembly, a preponderating influence, which is regarded by the other (with whatever reason) with habitual jealousy, it is indispensable that the judges should feel themselves absolved from any risk in uprightly interpreting and resolutely enforcing the law, even in those critical cases in which the two great parties in the province may be opposed to each other. His Majesty cannot

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be advised to decline the duty, painful as the discharge of it may be; of withholding his assent from a law, which a large majority of his subjects in Lower Canada might, with reason, regard as placing the very sources of justice itself under the virtual control of a single and distinct party, however numerous, and however much entitled to respect that party may be. The passage which I have already quoted from the bill under consideration, assumes that it belongs to the two houses of provincial legislature to appropriate, according to their own discretion, the whole of his Majesty's casual and territorial revenue, and all the funds which have formerly been granted to his Majesty by provincial acts.—Whatever may be the grounds on which this assumption rests, it must at least be admitted to be now distinctly advanced for the first time in the form of a solid legislative act; and it can scarcely be denied that the consequences it involves are of the utmost importance. His Majesty was at least entitled to expect that such an innovation would not have been attempted in any other form than that of a distinct and substantive measure. It is equally at variance with the usages of parliament, and with the respect due to his Majesty, thus to embody demands of a financial nature in an act of which the whole scope and object are entirely foreign to any question of finance. In the imperial parliament it has long been a settled maxim, that the commons are not entitled (to adopt the familiar but expressive phrase) to "tack" to a bill containing a grant of money, any enactment foreign to its professed scope and object. The journals of the house of lords abound in examples of the strict enforcement of this principle; and from the first settlement of colonial assemblies, it appears to have been a standing instruction to the governors to enfore the observance of it by refusing their assent to any bill in which it might be infringed. Such was the object of the general instruction, No. 11, accompanying lord Dalhousie's commission, and adopted in the commission subsequently addressed to your lordship. In the importance which I attach to the maintenance of this rule of legislative proceeding, I am, therefore, supported by the highest possible authority, and am acting upon an instruction laid down for the guidance of your lordship and your predecessors long before the agitation of the present question.

On a fitting occasion, should it arise, I shall be prepared to discuss the claims thus incidentally advanced in the present bill. But his Majesty cannot entertain the consideration of that question in the form in which it has now been presented to his notice. As one of the three branches of the legislature, his Majesty is not merely entitled, but bound to exercise an independent judgment upon every act, to the validity of which his assent is necessary. But if the course which has been pursued in this bill be not steadfastly resisted, this right must either become altogether nugatory, or the exercise of it must be, in the highest degree invidious. It is not fitting that his Majesty should thus be reduced to the dilemma of rejecting a law embracing an object recommended by himself, and to which the public at large justly attach the highest importance, or of accepting it on conditions wholly unconnected with its general design, and to which the most reasonable objections might perhaps be made. By consulting what is justly due to the dignity of the crown, the other branches of the legislature would be in no danger of impairing their own authority, or their undoubted claims to the attachment and respect of the people at large.

"Your lordship has stated that the proceeds of the crown lands and the timber fund, have never been considered as forming part of the casual and territorial revenue. I am bound, however, to understand the language of the bill not in an arbitrary or conventional sense, but according to the legal and proper meaning of the words employed by the legislature. It cannot admit a question, that the proceeds of the sales of land and timber are included in an expression so comprehensive as is that of the "Territorial Revenue." Had the assembly really contemplated a more narrow construction, I am bound to suppose that they would have adopted terms of a more limited meaning.

"The subject of judicial independence was very properly, perhaps unavoidably connected with that of the method of proceeding for the trial of offences with which any judge may be charged in the execution of his office. The objections to investing the legislative council with such a jurisdiction, are neither few nor inconsiderable. His Majesty, however, is not disposed to insist upon them. Considering how deeply all persons, and especially the two houses of

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general assembly, are interested in the reputation of the judges, and how urgent are the motives for proceeding against them with the utmost reserve and circumspection, his Majesty is content that they should abide the judgment of that tribunal to which this bill would render them amenable.

"His Majesty's decision on this part of the subject has not been framed without reference to the despatch, addressed by lord Bathurst to Sir John Sherbrooke, by command of his royal highness the Prince Regent, on the 7th of July, 1817. His lordship in that communication, admitted the propriety of delegating to the legislative council, the right of trying impeachments which might be preferred by the house of assembly; and that admission was certainly made in terms which if detached from their context, might seem to justify the claim to bring civil officers of every class to trial in this mode. Considering, however, the despatch in connection with the correspondence, of which it forms a part, and adverting to the whole of that document, it becomes evident that lord Bathurst is to be understood as referring only to the impeachment of the judges; and I presume his lordship to have been guided in the advice submitted by him to the Prince Regent on that occasion, by motives similar to those which I have already explained.

"In pursuance of the policy which I have had occasion to lament, the two houses have connected, with the subject of the impeachment of judges, a question still more comprehensive and of still greater importance.

"The bill provides that the legislative council shall be a tribunal for the trial of all impeachments which may be preferred, not only against the judges, but "against any person or persons for any crime, misdemeanor, or malversation in office committed in this province."

"I carefully abstain from expressing any opinion on the propriety of this measure. If the question of delegating to the legislative council a jurisdiction for the trial of impeachments against all public officers should ever be brought under his Majesty's consideration, in an act confined to that single subject, it will then become the duty of his Majesty's servants to devote their most serious attention to the advice which they will, in that event, be bound to submit to his

Majesty. But until the question shall be presented in that form, it cannot receive a decision.

"It is with no ordinary feelings of regret that I announce to your lordship, that his Majesty will not be advised to assent to the present bill. I had indulged, and not without great apparent reason, the hope, that the communications which I have had the honor to convey, through your lordship, to the provincial legislature, would have been received by them as a satisfactory proof of his Majesty's earnest desire to gratify to the utmost possible extent, the wishes of his canadian subjects, and that proposals made in the unreserved spirit of conciliation would have been received in the same temper. It is with a proportionate disappointment that I find them met by novel pretensions, urged in a form which I am unable to reconcile, either with parliamentary usages or with the respect due to his Majesty by the other branches of the provincial legislature. If my former despatches have failed to induce the conviction that his Majesty is anxious to co-operate in every measure calculated to promote the welfare of Lower Canada, and to assert his Majesty's prerogatives, only with a view to the benefit of his Majesty's subjects in that province, I despair of finding any language which would convey that impression.

"But while the king studiously maintains and freely acknowledges the rights of the two houses of general assembly, his Majesty is not less bound by his regard for the general good of his people, to assert his own, and especially when encroachments are attempted in form and manner, derogatory to the dignity of his exalted station.

"Your lordship will transmit to each of the two houses of the provincial legislature, a copy of this despatch, acquainting them that his Majesty is not only prepared, but is most desirous, to co-operate with them in the enactment of a law, which should render the tenure of the judicial office, dependent on the good behaviour of the judges, and their salaries independent on the future votes of the house of assembly; and that his Majesty does not object to the erection of the legislative council into a tribunal for the trial of any offences which the judges may be charged with committing in the execution of their office; but that his Majesty cannot autho-

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rize you to assent to any act for establishing judicial independence, containing any enactment, or declaratory of any principle of law foreign to that object.

"I have the honor to be, my lord,

"Your lordship's most obedient servant,

(Signed) "GODERICH."

On the 3d of December, it was resolved by the assembly to go into committee of the whole house to examine by evidence the events connected with and which led to the interference of an armed military force, at the late election of Montreal. The petitions of the inhabitants previously alluded to were referred to the committee, as were also the documents relating to the matter as laid by the governor before the assembly pursuant to an address from it, all which were, in the mean time, ordered by the house to be printed for the use of the members. A petition from the county of L'Islet, being about the same time presented, was also referred. Shortly after this came another petition from divers inhabitants of the counties of *Richelieu*, *St. Hyacinthe*, *Rouville*, *Chambly* and *Vercheres*, of equal energy with the two former. This also was referred. The result of these will, in due course, be made apparent, the assembly day after day, in the mean time, going into committee of the whole and examining witnesses at their bar, on the subject of the disturbances at the west ward election in Montreal.

On the 21st December, an address was resolved in the terms following:—

"That an humble address be presented to his excellency

the governor in chief, praying that his excellency will be pleased to inform this house, whether he has been pleased since the last session of the provincial parliament, and at what time, to recommend any increase in the number of the members of the legislative council; what persons he has recommended to his Majesty's government to appoint to that office, and whether it is probable that in consequence of such recommendation the said persons will be soon called to take their seats in the legislative council?"

To this his excellency answered to the messengers charged to deliver the same—

"Gentlemen,—The journals of the house of assembly furnish abundant proofs of my desire to comply with the wishes of the house, by communicating to it such information, as it may see fit, from time to time, to require of the executive government.

"Upon the present occasion, however, I find it necessary to desire, that the house may be informed, that it is my duty to uphold the dignity of the high office in this colony which his Majesty has been graciously pleased to confide to my charge; and that considering, as I do consider, a compliance with the prayer of the address which has just been presented to me, to be incompatible with that object, I cannot consent to inform the house "whether I have since the last session of the provincial parliament, and at what time, recommended any increase in the number of members of the legislative council, what persons I have recommended his Majesty's government to appoint to that office, and whether it is probable that in consequence of such recommendation, the said persons will be soon called to take their seats in the legislative council."

This was referred to the committee of the whole house, in session from day to day, concerning the Montreal election.

On the 2d January, it was ordered that a call of the house should take place on the tenth of the month, and on the fourth his excellency

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sent down the estimate of the expenses of the current year. The amount required was £54,604 sterling.

The call of the members of the assembly having taken place on the tenth of January, the house immediately afterwards went into committee on that part of the petition of the five counties, *Richelieu*, *St. Hyacinthe*, *Rouville*, *Chambly* and *Vercheres*, which relates to the constitution and composition of the legislative council. The house also went into committee on the subject of indemnity to its members, voting the same allowance to themselves as at the previous parliament. Upon the former matter the following resolutions were adopted:—

1.—"That it is the opinion of this committee, that from the instant when by the capitulations, the inhabitants of Lower Canada became british subjects, they had a right to the benefit of the representative system, and to the liberties and political rights of englishmen.

2.—"That it is the opinion of this committee, that the provision of the act 31st Geo. III., cap. 31, which invests his Majesty with the power (at once extraordinary, unusual, and contrary to the principles of the british constitution,) of composing, according to his pleasure, one entire branch of the provincial legislature, is incompatible with the principles of free government.

3.—"That it is the opinion of this committee, that the experience of more than forty years has demonstrated that the constitution and the composition of the legislative council of this province, were not, and are not, adapted to assure contentment and good government to this province, nor, therefore, to favour the developmeht of its resources and its industry."*

* The following are the proceedings and divisions on the adoption of these resolutions:—

A committee of nine members* was named to consider of and report the alterations to be

" Mr. Bourdages moved, seconded by Mr, Elzéar Bedard, that the question of concurrence be now separately put on the said resolutions,

" The house divided on the question :—Yeas 34, Nays 26,

" So it was carried in the affirmative.

" And the first and second of the said resolutions being again severally read, and the question of concurrence being separately put thereon ;

" The house divided upon each :—Yeas 34, Nays 26.

" So they were carried in the affirmative.

The third of the said resolutions being again read, and the question of concurrence being put thereon ;

" The house divided ; and the names being called for, they were taken down, as followeth :—

Yeas—Messrs. Amiot, Archambault, Bedard, Bertrand, Bourdages, Bureau, De Bleury, Déligny, Deschamps, De Witt, Jacques Dorion, P. A. Dorion, Fortin, Guillet, Hamilton, Huot, Kimber, Leslie, Létourneau, Lemay, Masson, Méthot, Morin, Poulin, Proulx, Raymond, Rivard, Rochon, Rodier, Simon, Thibeaudeau, Trudel, Valois, and Viger.—(34.)

" Nays—Messrs. Anderson, Baker, Berthelet, Caldwell, Casgrain, Courteau, Cuvillier, Davis, Duval, Goodhue, Gugy, Heriot, Hoyle, Neilson, Power, Quesnel, Quirouet, Scott, Stuart, Antoine Charles Taschereau, Taylor, Vanfelson, Wood, Wright, Wurtele, and Young—(26.)

" So it was carried in the affirmative, and

" Resolved, that this house doth concur with the committee in the said resolutions.

" Mr. Bourdages moved to resolve, that it is urgently necessary, that this house should address the Imperial parliament, for the purpose of soliciting the passing of an act to authorize the calling of a convention altogether elective, chosen by the present electors of the counties, cities and boroughs, (who shall send a number of delegates equal to that of the representatives whom they now send to the provincial parliament,) and having power and authority to propose such amendments to the act of the 31st Geo. III., chap. 31, as shall to them appear best adapted to produce and to assure peace, contentment, and good government in the province, under the protection and authority of Great Britain, and by that very means to preserve and perpetuate the gratitude and attachment of the colony to the mother country, which shall have conferred upon it so inestimable a benefit.

" Mr. Leslie moved in amendment, that all the words in the said motion after the words " passing of an act," be struck out, and the following substituted—" to amend the act 31st Geo. III., cap. 31, by enacting that no person shall be a member of the legislative council

* Messrs. Elzear Bedard, Bourdages, Morin, L. M. Viger, Leslie, De Witt, Poulin, De Bleury, Kimber.

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made in the constitution of the legislative council and the means of effecting the same in conformity with those resolutions. The committee after deliberating a month nearly, on the subject, made an elaborate report which Mr. Bedard, the chairman of it, handed in to the house. This was sanctioned by the concurrence of the assembly, and upon it an address to his Majesty was drawn up and transmitted through the governor. It was as follows:—

"To the king's most excellent Majesty.

"May it please your Majesty,—We, your Majesty's faithful and loyal subjects, the commons of Lower Canada, assembled in provincial parliament, deeply impressed with the necessity of the concordance and harmony that ought to prevail between the several branches of the legislature of this province, for promoting the happiness, the welfare and the good government of its inhabitants, have taken into mature consideration the circumstances connected with the constitution and composition of the legislative council of this province, as established by the act of the parliament of Great Britain, in the 31st year the reign of your late royal

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of Lower Canada, who has not resided fifteen years in the province, and who does not possess a clear annual income of at least five hundred pounds, derived from real property situated within the province."

"The house divided on the motion of amendment;

"Yeas 2, Nays 58.

"So it passed in the negative.

"The question being then put on the main motion;

"The house again divided; and the names being called for, they were taken down, as followeth:—

"Yeas—Messrs. Amiot, Bertrand, Bourdages, Bureau, De Bleury, Déligny, Deschamps, De Witt, Jacques Dorion, P. A. Dorion, Fortin, Guillet, Huot, Kimber, Létourneau, Masson, Méthot, Morin, Poulin, Proulx, Raymond, Rivard, Rochon, Rodier, Simon, Thibaudeau, Trudel, Valois and Viger.—(29).

"Nays—Messrs. Anderson, Archambault, Baker, E. Bedard, Berthelet, Caldwell, Casgrain, Courteau, Cuvillier, Davis, Duval, Goodhue, Gugy, Hamilton, Heriot, Hoyle, Leslie, Lemay, Neilson, Power, Quesnel, Quirouet, Scott, Stuart, Antoine Charles Taschereau, Taylor, Vanfelson, Wood, Wright, Wurtele and Young.—(31.)

father, our august sovereign of blessed memory, have considered it as our duty towards your Majesty as the supreme head of the british empire, and paternal chief of the people who compose it; towards ourselves as representing one of the most loyal of those people, and towards the general interests of the empire, most respectfully to represent:

"That the legislative council of this province, has not, at any period of its existence, given proofs of that spirit of independence and community of interests, with the inhabitants of the country, which could alone ensure that harmony in the proceedings of the government, and give, in particular to each of its branches, that degree of confidence of public opinion which is requisite to produce that effect.

"That it could not be otherwise, when it is considered that the original constitution of that body, and its renovation in proportion as vacancies occurred has been at the disposal of the crown, at the recommendation of the provincial administrations, most frequently interested in surrounding themselves in that second branch, by public functionaries, or by other individuals known to be advocates of the measures of the executive, and who became thus clothed with a legislative inviolability. No bounds were given to those appointments, and they were thus made, in great majority, from among those who were the least connected with the country, either in point of permanent interest, of services rendered to their fellow citizens, or of the esteem in which they were held. Hence the whole body became isolated from the people, none of the great interests of whom it represents.

"That the existence of this evil which has for a long time formed the subject of the remonstrances of the inhabitants of this country, has induced us to search for a remedy, so that the provincial government might be reconstituted upon bases which may at the same time coincide with those imitations of the metropolitan government, which it was evidently the intention of its legislators to introduce in the Canadas, and at the same time present that practical analogy the results of which were, no doubt, not less their desire to introduce, and without which apparent imitation in forms alone, would only produce a still greater anomaly.

"Although we have no hesitation in stating our opinions

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as to the means of remedying this constitutional defect in our government, as forming the bases of our humble representations to your Majesty, and although we do not consider that all the interests of the country are fully and equally represented in the third branch of the legislature, yet those to whom a defective system of government have given an unconstitutional preponderance, might make a handle of it to cause the expression of our opinion not to be looked upon as that of the population in general; and, by the operation of the same system, the representations of interested public functionaries, and of privileged persons in the colony might reach your Majesty's government, carrying the same weight as those of the representatives freely elected by the whole people. This danger added to the wide local distance might cause measures adopted in the United Kingdom with the best intentions, but without practical and local knowledge, to be discordant with the true interests of the province, and even to hurt those interests in essential points.

"We therefore presume humbly to represent that, in case your Majesty should be convinced of the difficulties that have been exposed, there would be the certain means of preventing them, by placing the people of the country in general, in a situation to express their opinion, and to recommend proper modifications through delegates freely and indiscriminately chosen for that purpose by all classes, and out of all classes of the community, so as to be in harmony with the interests of the province, and with those of his Majesty's government, which cannot be separated from each other. Such a body, constituted in virtue of an act of parliament of the United Kingdom, to whom they would have afterwards to make a report of their labours, would, whilst it could be no disparagement to the supreme authority of the empire, be in unison with the numerous examples in the free institutions of this continent, with respect to which it has often been declared that England desired to leave nothing to be wished for by the inhabitants of these colonies.

"A general assembly of this kind, would prove to be a faithful interpreter of all the interests of the colony taken collectively, including those which it was the intention to be caused to be represented by the legislative council, and

those which that body claim to represent. Those interests would in effect possess therein, all their weight and all their legitimate influence; unless, indeed, whilst the executive branch of the colonial government represents the interests of the metropolitan state, there ought to be also another constituted branch out of the country, and compounded of elements without any affinity with the varied interests and feelings of those who inhabit it.



"In case your Majesty should not consider it proper at this time to adopt such a measure, we will not take upon ourselves, in stating the result of our deliberations, to determine whether the entire abolition of the present legislative council of this province, and the assimilation of its government to that of several of the adjacent colonies, would tend to cause peace and harmony to be re-established in the conduct of affairs. The people of the country, if they had an opportunity of being legally constituted for that purpose, would be the best judges to decide this weighty question. We therefore proceed upon the supposition that an intermediate legislative branch may, in certain cases, produce more maturity in the deliberation and examination of bills, than if only one body were called upon to assent to them; at the same time, circumstances of rare occurrence might happen in which the popular representations might, for the moment, contravene the interests of the body of their constituents, and that those interests might be cherished in the second branch, and guarded, until the wishes of the people were more fully expressed, either by more decided representations or by the means of new elections.

"The second branch as actually in existence, in no way connected, in the majority of its members, with the superior and permanent interests of the country, is not adapted to fulfil that end; and, even putting the case, of which as yet there has been no example, that a provincial administration were to send to it a majority of men of opposite principles, the following administration, or perhaps the same, might very soon hasten to recompose the body in such a way as to ensure its approbation of their measures.

"The habits, the climate, the newness of the country, the changeability of fortunes, the division of estates, and the laws which facilitate it, are obstacles to the existence of a

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permanent aristocracy, so that an hereditary legislative body, with the powers of the house of lords, would be simply an impossibility in Canada. Landed property being here almost wholly owned in small lots by the mass of the people, it would be impossible to make a choice so as to form a permanent legislative council, even supposing it to be a numerous one, of men who in their own persons would present an essential portion of the existing means and capitals of the country; much more, they could not counterbalance in importance and in wealth any one single county in the province: and even supposing that such a body could be collected, the above mentioned circumstances would very soon bring it into decay. In fact, several persons heretofore called to the legislative council, and whom we may reckon then possessed a large and permanent interest in the country, have since found themselves entirely destitute of fortune.

"As to the idea of perforce creating an aristocracy through the medium of law, either by endeavouring to establish upon a system of *substitutions* (entails) or otherwise, a state of things, which the moral and physical circumstances in which the country is placed, forbid; or by making provision out of the public funds for legislators for life and without responsibility, it is one that is so contradictory to the known ideas of the constitution of England, as a practical model to go by, that your faithful and loyal subjects who now most respectfull address your Majesty, do not think it necessary to dwell upon it.

"A pecuniary qualification required in the persons called to the council, if the choice of them be left to the executive, would not probably produce any perceptible change in the composition of the body, with relation to the nature of the various other portions of our colonial institutions. The appointments must in that case necessarily be made upon the recommendations of governors, who, being only transitorily in the country, and not having it in their power to become properly acquainted with the inhabitants of the country, until after a long residence, most frequently have recourse to irresponsible advisers in the colony. The persons who are qualified, being much fewer in number than those who would have to be chosen, the result would be that the worst would be chosen of those, and that the supposed qualification

would only serve to legitimate the abuse, and to render its disappearance more difficult. Then, although each of those who were called to the legislative council might be capable of having a seat there, the majority would collectively have been chosen in an exclusive sense, and from amongst such as had the fewest relations of interest and feelings of the people. We should see, as we have in times past, this body, far from being attached to the country, and making part of it, representing only favoritism, monopolies, and privileges; and through its unconstitutional influence upon the march of public affairs, perpetuating that tendency of the men in power in the province, to oppose themselves to every measure demanded by the people, and creating and maintaining a separate interest and feelings of distrust and even hostility in the minority, instead of labouring in conjunction with the house of assembly, to unite all the inhabitants of the country by means of an uniformity of views and institutions, possessing the same confidence in your Majesty's government. The abuse here pointed out is, as we humbly conceive, sufficiently exemplified in the present composition of the legislative council, the appointments made during the last few years have only in a small number, a relation with the mass of the people generally, whilst the majority has been such as we have supposed it would continue to be along with a pecuniary qualification.

"There only remains, may it please your most gracious Majesty, the principle of election to rest upon, as being capable in practice of presenting an analogy with the second branch of the legislature of the United Kingdom.

"We entertain no doubt of the result of the adoption of this principle, if the election depended upon a numerous body of electors composed of the best ingredients and the best interests of the colony; and if the choice were confined to persons possessed of a certain easy degree of fortune, without, however, raising that qualification so high that such choice could only be made, in any case, but out of a small number of eligible persons. The best effects might be expected from a legislative body constituted upon those basis, if, whilst its principle of action was founded in the interests of your Majesty's subjects in this province, as a general and common motive, it found itself in its formation and its proceedings

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independent of the popular assembly. It would undoubtedly be thus with the above qualifications, and with a different mode of renewal, so as to give more permanence to the body that is now in question.

"It is upon these several considerations that we most respectfully submit the following details:—

"That an elective legislative council be established, chosen by landholders having a nett annual income of ten pounds in the country, and twenty pounds in cities, and who have been residents for at least one year within the circle wherein the election takes place.

"The eligibility to be restricted to the subjects of your Majesty, having attained the age of at least thirty years, residents of the province, and having resided therein at least fifteen years, and possessing an annual freehold income arising from property situated within the province, of at least one hundred pounds for those elected for the county, and of at least two hundred pounds for those of the cities at Quebec and Montreal.

"The duration of the body to be limited to six years; the renewal to be made by one-sixth part every year, it being to be determined during the first five years by lot which of the members chosen at the general election shall have to retire. When there shall happen to be any vacancies, those who succeed to them to be members only for the period which would have remained to their predecessors.

"The number of members to be equal to that of the counties, cities, and divisions thereof, or other circles sending members to the house of assembly, with the exception of boroughs whose population does not amount to two thousand souls, who would only have to vote in the connties of which they make part. So that the number of councillors would be nearly half of that of members of the assembly.

"The speaker or chairman of the body to be chosen by the members, subject to the approbation of your Majesty.

"The judges to be ineligible, as well as the clergy.

"The members of the present legislative council not to belong to the new council, except they are elected; yet, nevertheless, should your Majesty in your most gracious royal intention think proper to retain them therein, they should only be considered as supernumerary members, and

would have to justify their qualifications in landed property, and resign their places of profit.

"The legislative council not to be subject to dissolution.

"The members not to accept, otherwise than by bill, places of profit or honor during good pleasure, excepting those of justice of the peace, and in the militia, nor become accountable for public money, nor receive any from the executive government, under whatever denomination, without subjecting themselves to a reelection.

"The individuals who offer themselves as candidates, to make oath as to their qualifications; if the candidates are not present, three electors may make affirmation as to that qualification, to the best of their knowledge. The members elected shall, before they take their seats, take the same oath, and shall be bound to renew it at all times upon order of the body.

"When it happens that members are elected at the same time both for the legislative council and for the assembly, they shall make choice of either one or the other of the houses, within a prescribed time.

"We cannot close our present humble address to your Majesty, without expressing how much we should have desired to have received the particular statement of the views of your Majesty's government on this important subject, as announced by the right honorable lord viscount Goderich, your Majesty's principal secretary of state for the colonies, in his despatch of the 7th July, 1831, addressed to his excellency the governor in chief of this province, and that the same has not yet been communicated to us, so as to aid us in our endeavours to remedy an acknowledged and instant evil.

"Wherefore we, the faithful subjects of your Majesty, do most humbly pray that your Majesty will be pleased to take these our representations into your gracious and favourable consideration, and grant such remedy therein as to your Majesty in your wisdom may seem proper.

"And as well from inclination, as from a sense of duty, we shall not fail ever to pray for your Majesty's sacred person."

A difficulty, as seen by the governor's speech, had arisen between the commissioners on the part of Upper and Lower Canada with

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respect to the duties due the former. The difficulties in this matter had been the means of reviving the project of annexing Montreal to Upper Canada. The report of the arbitrator* on the part of Lower Canada being laid before the assembly, it went into committee of the whole a few days after the call of the house, to take the same into consideration "together with the state of the relations between this province and Upper Canada, in regard to duties and commercial intercourse, and on that part of the petition of divers inhabitants of the city of Montreal and its vicinity which relates to the dismemberment of the province," and the resolutions inserted below were agreed upon and reported.†

* The hon. Toussaint Pothier.

† "That it appears by a copy of the award on the proportion of duties received in Lower Canada, accruing and payable to Upper Canada, made at Montreal, on the 8th of October, 1828, by the arbitrators severally named by the governor of Lower Canada, and the lieut.-governor of Upper Canada, under the authority of the act of the parliament of the United Kingdom, 3d Geo. IV., cap. 119, and communicated to this house, by message, on the 3d December following, that the term for which the said award was made expired on the 1st July, 1832.

"That it appears by the report of the arbitrator named by his excellency the governor in chief, on the part of Lower Canada, under the authority of the said act, on the 28th June last, laid before this house on the 4th January inst., in conformity to the address of this house of the 28th December last, that no award has been made for the proportion of the said duties accruing and payable to Upper Canada, for any term subsequently to the said 1st July, 1832.

"That the failure of such award has been occasioned by the refusal of the arbitrator* named on the part of Upper Canada, by the lieut.-governor of the said province, under the authority of the same act, to accept of a third arbitrator named by the arbitrator on the part of Lower Canada, or to propose a third arbitrator.

"That it appears by the communication of the arbitrator on the part of Upper Canada, to the arbitrator for Lower Canada, (dated 8th Oct., 1832.) that the said arbitrator for Upper Canada preferred leav-

* The hon. George H. Markland.

The assembly evinced great interest in their complaints against Mr. Stuart, and presented

ing the appointment to the king, amongst other reasons "as the difference is no longer one of the amount of duties only, but involves a principle of the utmost importance to Upper Canada;" and that the said arbitrator, in a published report laid before the legislature of Upper Canada, dated the 5th Novr., 1832, has asserted, "that it must soon become necessary to resort to some other mode of ascertaining our proportion, as population will no longer be a just and satisfactory ground," and that a legislative enactment, by the imperial parliament, was by him deemed necessary.

"That although the aforesaid act of the imperial parliament (3rd Geo. IV., cap. 119) was passed without the knowledge of this house, upon the representations of Upper Canada, and drafted, as asserted by the said arbitrator, by the present chief justice of Upper Canada, then acting in England for that province, the legislature of Lower Canada has concurred in its execution, with the sole view of not disturbing a settlement of differences with Upper Canada in regard to duties, and as establishing a perfect freedom of commercial intercourse for Upper Canada, entirely independent of all control on the part of Lower Canada.

"That this house has seen with sincere regret, the refusal of the arbitrator on the part of Upper Canada, to accept or nominate a third arbitrator, whereby Upper Canada is exposed to delay in the receipt of the proportion of duties which may be due to the said province under the said act, and particularly the aforesaid expression of a desire on the part of the arbitrator named by the executive authority of that province, to apply for legislative enactments in the United Kingdom on this matter, other than those of the said act; although no communication has been made for the proposed extent and substance of such enactment to this province, in a matter wherein it is so directly and materially interested.

"That it is of public notoriety that the said arbitrator on the part of Upper Canada, after the failure of the said award, together with several other high officers of the executive government of that province, took an active part in promoting a petition to his Majesty, praying in effect for an alteration in the Constitutional Act of the two Provinces of Canada, passed in the parliament of Great Britain, 31st Geo. III., cap. 31, whereby the city and county of Montreal, and county of Vaudreuil, in this province, should be annexed to Upper Canada, as a mode of avoiding future difficulties, by giving a port of entry to Upper Canada, for the collection of their own duties.

"That the counties so intended to be dissevered from this province and annexed to Upper Canada, contain a population of nearly sixty thousand inhabitants, the most part of whom are descendants of those in whose favor the stipulations in the capitulations of Canada, of the 8th September, 1760, were made.

"That the said inhabitants, as well as all the inhabitants of Lower Canada, by the thirty-seventh article of the said capitulations, were maintained "in the entire peaceable property and possession of their

an address to the governor, praying he would lay before the house copy of any despatch in

goods, noble and ignoble, moveable and immoveable," which express stipulation included, under a just and the most favorable interpretation, in respect to the capitulating party, the laws by which such property is regulated.

"That conformably to the said stipulation, and to the aforesaid interpretation thereof, the parliament of Great Britain, by a certain act passed in the fourteenth year of the reign of his Majesty king George the third, inituled, "An act for making more effectual provision for the government of the province of Quebec, in North America," (14th Geo. III., cap. 83.) after declaring that the inhabitants of the said province had enjoyed "a system of laws by which their persons and property had been protected, governed and ordered for a long series of years, from the first establishment of the said province of Canada," enacted, that all acts to the contrary should be "revoked, annulled, and made void; and, "that all his Majesty's canadian subjects, within the province of Quebec, the religious orders and communities only excepted, may also hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all their civil rights, in as large, ample, and beneficial a manner, as if the said proclamation, commissions, ordinances, and other acts and instruments had not been made, and as may consist with their allegiance to his Majesty, and subjection to the crown and parliament of Great Britain; and that in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the courts of justice, to be appointed within and for the said province, by his Majesty, his heirs, and successors shall, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they shall be varied or altered by any ordinances that shall, from time to time, be passed in the said province, by the governor, lieutenant governor, or commander in chief for the time being, by and with the advice and consent of the legislative council of the same, to be appointed in the manner hereinafter mentioned."

"That the said Parliament, by another act (31st Geo. III. cap. 31,) intituled, "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the government of the province of Quebec, in North America," and to make further provision for the government of the said province," confirmed the before recited provisions, and in the true spirit of the said capitulations, secured to the said inhabitants the full and entire enjoyment of the said property and laws within the province of Lower Canada, unless they should be altered by and with the advice and consent of representatives chosen by the freeholders or qualified electors of the said province.

"That by the proposed annexation of the aforesaid inhabitants to the province of Upper Canada, they, as well as their property, would

his possession received from his Majesty's government in England, since December, 1831,

fall under the rule of laws with which they are unacquainted, and which are entirely unapplicable to the said property and the full and free enjoyment and security thereof, or if the said property and the laws by which it is regulated were nominally secured to them, with suitable tribunals for the administration of the said laws, the whole would be liable to be altered and rendered insecure, without their consent and that of the majority of the freeholders and qualified electors of the said province, interested in their preservation in common with them, contrary to the said capitulations and the said acts of the british parliament.

"That the legislature of this province has, at no time, levied any duties on goods passing into the province of Upper Canada, or otherwise affected the free passage of goods, to or from the said province, without the consent of the legislature of Upper Canada, or contrary to its representations; but that in addition to its concurring as aforesaid, in the act of the parliament of the United Kingdom, (3d Geo. IV. cap. 119,) which has deprived Lower Canada of all such power, it has repeatedly, in conformity to a recommendation of a committee of the house of commons, and of his Majesty's government, passed an act for appointing commissioners on the part of Upper Canada, on all matters relating to duties, the navigation of the St. Lawrence, and commercial intercourse, which act has not hitherto been met by a corresponding statute on the part of Upper Canada, although it has, also, repeatedly received the sanction of the representative body of that province.

"That this house duly considering the premises, now solemnly protests, in the name and on the behalf of the people of this province, against the dismemberment of any part thereof, as established by law; and particularly against the proposed annexation of the city and county of Montreal, and the county of Vaudreuil to Upper Canada, as a premeditated and unprovoked spoliation, in violation of the capitulations under the faith of which Canada and its inhabitants submitted to his Majesty's arms, of solemn acts of the british parliament, and the good faith of the british government and nation."

The following is the address to his Majesty drafted by a committee of the assembly of Upper Canada, on the subject of the limits of that province and other matters noticed in the preceding resolutions:—

TO THE KING'S MOST EXCELLENT MAJESTY.

Most gracious Sovereign,—We, your Majesty's dutiful and loyal subjects, the commons of Upper Canada, in provincial parliament assembled, in approaching your Majesty, &c. &c., beg leave at the same time, most respectfully to represent to your Majesty, that the acquisition of a sea port within the limits of Upper Canada, where the commercial intercourse of this colony with the mother country and foreign nations may be directly carried on by our own merchants, and where our revenues may be levied and collected by officers sub-

touching the charges preferred against him, and the final determination of his Majesty's

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ject to the control of our own laws, has, from the great and rapid extension of our trade and agriculture, consequent upon a vast accession of population and wealth from the parent state, become an object of absolute necessity to the future prosperity, security and greatness of this portion of his Majesty's dominions.

"That, upon the division of the late province of Quebec, by the proclamation of your royal father, in the 31st year of his reign, the two great sea ports of Canada, Quebec and Montreal, were both included within the limits of the Lower Province; while the boundaries assigned to Upper Canada effectually excluded her from all direct intercourse with the ocean, when, by extending her eastern boundary to the confluence of the rivers Ottawa and St. Lawrence, and embracing the island of Montreal within the Upper Province, each colony would have been secured in the free enjoyment of its own commerce.

"The whole of our commerce by sea, either with the british dominions and foreign countries, must of necessity, be carried on through the ports either of Montreal or Quebec, and consequently Lower Canada reaps a large proportion of our profits, and of our industry, without conferring upon this province any corresponding benefit. Our trade is also subjected to various dues, tolls and other exactions, by the laws of Lower Canada, when passing through her ports, as well as to commission and other charges by the private merchant, to whom our produce is, of necessity, consigned; all of which operate as a tax upon our industry, and amount, annually, nearly to the sum received by this province as her share of the duties levied in Quebec and Montreal.

"If a canal be constructed, or an improvement made in the navigation of the St. Lawrence, below the present boundaries of Upper Canada, she indirectly pays, not only the principal sum expended, but such a perpetual annuity, under the name of tolls, as Lower Canada may think proper to impose.

"Instead of receiving directly the duties levied upon our own imports, the proportion to which we are entitled must be a subject of perpetual and uncertain negotiation; and when ascertained, its receipt is subject to the delay and procrastination of public functionaries in the Lower Province, over whom we have no control.

"Under these circumstances we feel the strongest assurance that your Majesty will not fail to recognize the justice of our claim to a port of entry from sea, where our revenues of customs may be collected, and our intercourse with our mother country carried on without being subject to the enactments of the legislature of a sister colony, in which we are not represented, and which have proved in many instances extremely prejudicial to our best and dearest interests. While we have witnessed with satisfaction the friendly negotiation of your Majesty with foreign nations, to obtain for some of the smaller states of Europe, by your powerful mediation, such natural limits as were deemed essential to their national security, we feel additonal confidence that it is only necessary to the attainment of

government relative to them. To this he answered that he would comply with the desires of the house. Accordingly, after a space of two or three days, the despatches which follow were sent down, explanatory of the views entertained by the colonial minister of the matter, and by which it appeared that he had removed Mr. Stuart from his office of attorney general of Lower Canada:—

"Downing Street, 20th November, 1832.

"My lord,—I have the honor to acquaint your lordship, that having fully and maturely considered the various documents which have been transmitted to me by your lordship, and by Mr. Viger, in explanation of the motives which induced the house of assembly of Lower Canada to address your lordship to remove Mr. Stuart from the office of attorney general of that province, in consequence of which your lordship suspended him from his office until his Majesty's

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our natural and just rights, that we should lay before your Majesty the evils to which we are constantly exposed, by reason of the line of separation between this province and Lower Canada, having been established, at an early period, so disadvantageously to the future welfare of this province.

"A committee appointed by your faithful commons, during the present session, have agreed to a report upon this important subject, which, with the evidence it refers to, we humbly beg leave to lay before your Majesty.

"Suffering under the accumulated evils which are more fully dwelt upon in the accompanying report, we entreat your Majesty to take the subject of our complaint into your royal consideration, and to recommend to both houses of parliament the annexation to this province of the island of Montreal, together with the territory lying between the confluence of the rivers Ottawa and St. Lawrence, and present eastern boundary, upon such terms as shall best accord with those principles of justice which have ever guided your Majesty's council, and that wisdom which has at all times distinguished the deliberations of the imperial parliament.

"We again beg leave to assure your Majesty of our sincere attachment to your Majesty's person and government, and of the entire confidence which we repose in the wisdom and justice of parliament, to afford us relief under the embarrassments which our trade and commerce have so long been subject to."

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pleasure should be known, together with the various documents which Mr. Stuart has transmitted to me in his own vindication; and having availed myself of the assistance of the attorney and solicitor general in coming to a decision on this case, I found it to be my duty to advise his Majesty to confirm Mr. Stuart's suspension. I shall avail myself of another opportunity of explaining to your lordship the reasons which influenced me in advising his Majesty to nominate some other person as attorney general of Lower Canada. In compliance with my recommendation, his Majesty has been pleased to appoint Mr. Ogden, the solicitor general, to succeed Mr. Stuart; and I am to request that your lordship will select some gentleman who may be competent to that office as a solicitor general.

"I have the honor to be, &c., &c., &c.,

(Signed) "GODERICH."

"Lieut.-gen. lord Aylmer, K. C. B., &c., &c., &c."

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"Downing Street, 7th Decr., 1832.

"My lord,—In my despatch of the 20th Novr., No. 156, I stated that I would avail myself of an opportunity of communicating with your lordship more in detail on the case of Mr. Stuart; and I therefore now proceed to explain the grounds on which I felt it to be my duty to advise his Majesty to confirm his suspension.

"The evidence before me establishes, in my opinion, the conclusion that it being the duty of the attorney general of Lower Canada to advise the government of that province, he permitted and encouraged the issue of new commissions to notaries as necessary, inducing the government as well as the public to believe that such was the case, when he seems to have been of opinion that no such necessity existed, and that he therefore obtained certain fees, the exaction of which, unless the renewal was necessary, he knew to be illegal. If, however, it had been proper to renew the commissions, I do not consider that the alterations introduced by him in their form, would have justly exposed him to censure.

"I am also of opinion, that the multiplication of indictments before the court of king's bench was needless, and required an explanation, which the documents delivered by Mr. Stuart in his defence, do not afford.

"I find no reason to think that on the prosecutions for libels, the late attorney general did not take the course which he, *bona fide*, thought best for the public service, or that he was mistaken in the opinion which he formed on the subject.

"With respect to the proceedings at the election for the borough of William Henry, I do not find that Mr. Stuart menaced the voters against him, in any other manner, than by pointing out the consequences of their swearing falsely.

"It would, however, have been much more correct on such an occasion, to have avoided alluding to his own power as attorney general, and to have abstained from speaking of the pillory.

"I consider the prosecution which Mr. Stuart instituted against Aussant, to have been an oppressive abuse of power; and I conclude that the same harrassing suspense was inflicted on Cournoyer.

"I cannot but regret that Mr. Stuart should have felt himself authorized to advise an old and illiterate man, situated as St. Germain was, to take the oath of qualification.

"Supposing the controversy respecting this vote to have been reduced to a mere point of law, as stated by Mr. Stuart, it appears to me to have been improper to decide a legal question, touching the effect of a written instrument, on so imperfect a knowledge of its contents.

"But the assertion that the controversy was restricted to that point of law, and that all parties were agreed upon the facts which might have been confirmed by numerous bystanders, seems to me to be absolutely inconsistent with all the evidence adduced against Mr. Stuart, and to derive no support from any adduced in his favor.

"With regard to the case of the Hudson's Bay Company, I conclude Mr. Stuart's vindication against those charges would have been available if they had been preferred in England; that any irregularity in his holding briefs against the conviction would even here be merely technical, and may probably not exist at all in Canada, and that there is no sufficient ground for thinking that that opinion given by him was not correct as well as his views upon the two actions brought by the Hudson's Bay Company, and that the disgraceful motives imputed to Mr. Stuart in the report

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of the committee of the house of assembly, though not in their resolutions, are unsupported by any proof whatever.

"But I am inclined to think that Mr. Stuart's zeal to serve the company, did operate improperly in two particulars; the prosecution of Lampson's servants, and the prosecution of Lampson himself, and that he ought to have withheld his assent from the preferment of those two bills, and although the latter indictment was preferred by the junior counsel in the cause, and not by himself, he is not thereby relieved from the responsibility of having permitted it.

"I have the honor to be, my lord, &c., &c., &c.,

(Signed) "GODERICH."

"Lieut.-general lord Aylmer, K. C. B., &c., &c., &c."

The glad tidings conveyed through these despatches, were hailed with something like enthusiasm by the majority, who exulted in the disgrace of this highly talented gentleman and by far most eminent lawyer of the canadian bar, evidently sacrificed to propitiate the ruling party of the day, and as many thought, to shield lord Aylmer from the consequences of his too ready compliance in suspending him.

Mr. justice Kerr remained to be disposed of. This gentleman was also on account of his politics and votes in the legislative council, of which he had been an active member extremely obnoxious to the assembly. The house, as previously mentioned, having resumed the consideration of the matters urged against him—resolved that "it was incumbent upon it to prosecute the charges it had brought against him;" also, that it was prepared to make good the charges, and that so soon as a competent tribunal shall be established, "this house will exhibit articles of impeachment

against the honorable James Kerr, and will support the said articles by evidence"—and that " the inhabitants of this province imperatively require that the said James Kerr be suspended from the exercise of all judicial functions until and pending his trial before such tribunal." The incompatibility of the two offices of judge of the king's bench and judge of the admiralty in his person was also noticed. An address to the king, in conformity to these, was drawn up and forwarded through the governor to his Majesty's government. Mr. Kerr shortly afterwards proceeded to England to justify himself against these accusations by the assembly, but being, for some alleged irregularity in a financial matter connected with his office of judge of the court of vice admiralty dismissed from this office, the minister, Mr. Spring Rice, availed himself of the circumstance to remove him on that account also from his office of judge of the king's bench at Quebec. He was accordingly, after forty years service, cast upon the world, destitute and without any provision. This removal, however, was rather popular than otherwise.

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The inquiry relative to the events of the 21st of May at Montreal, proceeded day after day during the session, but without result until the session following. Several addresses were presented to the governor for papers and documents connected with this matter, and there seemed to be a desire to implicate the governor himself in culpability with respect to it, not

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less than the authorities at Montreal, and particularly lieut.-col. Macintosh,* who, the gover-

* In answer to the address of the house of assembly of the 14th inst., in which the house prays to be informed, if in consequence of the information contained in an affidavit of lieut.-colonel Macintosh, dated the 1st of June, the words of which affidavit are quoted in the first paragraph of the said address, it has pleased the governor-in-chief to institute an enquiry to ascertain the truth of what is therein stated; the governor-in-chief informs the house, that no such enquiry has been instituted by his order, into the circumstances so stated; neither does he consider the magistrate, whose name occurs in the affidavit of lieut. col. Macintosh, to have been guilty of an act of levity, or wicked contrivance, in order to irritate, or mislead that officer. And the governor-in-chief thinks it necessary, moreover, to inform the house of assembly, that he is not aware of the existence of any grounds for supposing that lieut.-col. Macintosh was irritated or misled by any individual whatever upon the occasion in question; but that on the contrary, the governor-in-chief feels assured, that he, lieut.-col. Macintosh, in complying with the requisition and directions of the magistrates, acted in every particular as became him, and faithfully discharged his duty as a military officer, and a good subject of the king.

"In answer to the second paragraph of the address of the house of assembly, praying to be informed "if any prosecution has been ordered against any person, as being party, or privy to any such highly criminal plan, or if any one has been arrested as connected therewith," and so forth; the governor-in-chief informs the house of assembly, that no such prosecution has been directed by him; and that in all cases wherein the interference of the executive power may be required in giving effect to the laws of the province, the governor-in-chief will be found ready to act according to circumstances, and to the best of his judgment.

"In answer to the third paragraph of the address of the house of assembly, the governor-in-chief informs the house that no enquiry has been instituted by his order into the correctness, or incorrectness of the report contained in a letter from lieut.-col. Macintosh, bearing date the 22d of May, in which he states that he was informed by Dr. Robertson, and capt. Temple, "that many acts of violence had been committed, and that many of them (the crowd) were in possession of arms;" neither has any enquiry been instituted by his order as to the correctness, or incorrectness of another statement contained in the same letter, as follows:—"at the same moment I was informed, that the rioters were in the act of murdering a man on the side of the place opposite St. James' street;" and the governor-in-chief further informs the house, that should any circumstances be brought to his knowledge which might possibly render it expedient to issue a proclamation in his Majesty's name, to the intent contemplated by the house, he will take the same into his consideration.

"In answer to the fourth paragraph of the address of the house of

nor took occasion to say, in one of his messages in answer to an address of this description, he felt assured, " in complying with the requisition and direction of the magistrates, acted in every particular as became him, and faithfully discharged his duty as a military officer and a good subject of the king."

The address to his Majesty by the assembly with respect to the legislative council, brought out this body who adopted certain resolutions on the subject, and in turn prepared a strong address to the king :—

" ADDRESS OF THE LEGISLATIVE COUNCIL OF LOWER-CANADA,

*" To the King's Most Excellent Majesty.*

" Most gracious Sovereign,—We your Majesty's dutiful and loyal subjects, the legislative council of Lower Canada, in provincial parliament assembled, having had under our serious consideration, the dangerous and unconstitutional proceedings adopted by the assembly, are impelled by a sense of duty to your Majesty, and your Majesty's faithful canadian people, humbly to approach your Majesty's throne, with a representation of the alarming posture of the affairs of this province, and our earnest supplication for immediate and effectual relief.

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assembly, the house may rest assured, that his Majesty's government are in full possession of all the documents which have at different times, during the present session, been communicated to the house by the governor-in-chief.

" In answer to the fifth paragraph of the address of the house of assembly, the governor-in-chief informs the house, that being desirous of affording it every information in his power, he has called upon the law officers of the crown for their opinion, whether or not, the statute 1st Geo. I., cap. 5, is, or is not in force in this province, and that those public officers coincide in opinion that the said statute is in force in this province, and forms part of the criminal law of the land, introduced in this province by the 14th of his late Majesty Geo. III., cap. 88, section 11."

" Castle of St. Lewis, Quebec, 18th March, 1833."

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"From the invariable state of peace and prosperity to which we had attained under the constitution, bestowed upon us by your Majesty's royal father and the Imperial parliament, we are approaching to a state of anarchy and confusion—unceasing attempts are made to destroy the confidence which has hitherto subsisted between the subjects of your Majesty of different origin and language—the interests of agriculture and commerce and the wants of the people are neglected for the advancement of the cabals of party—your Majesty's representative is falsely charged with partiality and injustice in the exercise of the powers confided to him—your Majesty's officers, both civil and military, are deliberately libelled, as a combined faction, actuated by interest alone, to struggle for the support of a corrupt government, adverse to the rights and wishes of the people—and this unmerited abuse has, for years past, been as frequent within the walls of the assembly as without—nor can it be doubted that this system has been adopted and urged, with the wicked intention to degrade the local authorities in the eyes of the people, and thereby ultimately to render them powerless and inefficient for the support of your Majesty's government in this province.

"Every thing indicates a continuance, if not an increase of the evils which we have briefly enumerated—for while your Majesty's officers, and particularly the judges of your Majesty's courts of law, are accused and defamed, a competent tribunal within the colony, to which they might appeal for trial and vindication, is refused—whereby a timid, instead of a fearless and independent exercise of their functions is to be apprehended; and with a view to the completion of its designs, the assembly has ventured on the daring step of addressing your Majesty to render the legislative council elective.

"The crisis at which we have arrived, is pregnant with consequences of the deepest interest to the happiness and welfare of your Majesty's subjects in this province, and at such a moment, it would be criminal in the legislative council, to withhold from your Majesty, the frank and candid avowal of its sentiments.

"The efforts of the assembly have been obviously directed, for several years past, to the attainment of power and

influence, at the expense of the crown, and in direct violation of the constitutional rights and privileges of the legislative council. In illustration of this, we respectfully advert to the persevering endeavours of that house to obtain the entire controul and disposal of all the provincial revenue and income, refusing, at the same time, to make any adequate permanent provision for the expenses of the civil government, and to provide for the independence of the judiciary,—to the conditions and instructions annexed to the votes of certain sums contained in the bill of supply, sent up during the present session, which strike at the existence of your Majesty's prerogative to appoint to all offices of honor or profit in the colony,—to the claim advanced by the assembly to preserve this extensive and important part of your Majesty's dominions, (in which there is room for millions of inhabitants) as a colony to be settled only by canadians of french origin and descent, contrary to the just and manifest rights of your Majesty's native born subjects,—and lastly, in the attempt to induce your Majesty to adopt a measure which would destroy the equilibrium of the constitution, by substituting an elective council for the intermediate branch established by law. In reference to the pretension last noticed, we humbly entreat your Majesty's attention to the undeniable fact, that in proportion as your Majesty has graciously been pleased to increase the constitutional weight and efficiency of the legislative council, by the addition of members, unconnected with the local administration, and largely taken from the assembly itself, the efforts of that house for its entire abolition, have become more and more violent and daring.

"That the constitution of government established in this province, under the act passed in the 31st year of the reign of his Majesty king George the third, chapter 31, has been efficacious in promoting the welfare and happiness of the inhabitants thereof, and in confirming their attachment to the british throne, are facts powerfully attested by the peaceable submission of the people to the laws, and the readiness with which they have on all occasions defended the province against foreign aggression, as well as by the petitions laid at the foot of the throne in the years 1814 and 1828, and the addresses, at those periods, of the assembly itself,

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in which they entreated his late Majesty and the imperial parliament "to maintain the inhabitants of Canada in the full enjoyment of the constitution as established by law, without any change whatever."

"It was in the year 1831, after the general election for the assembly, now in session, and when some grounds of complaint against the local administration were in course of being redressed by the interposition of the imperial government, that a desire for a change in the constitution was first openly avowed in that body, and it is a matter of astonishment that a violent and reckless party in that house, should be able to induce a majority of its members into an attempt to destroy a form of government, under which your Majesty's canadian people have enjoyed a state of peace, security and contentment, scarcely exceeded by any part of the world, and against which no considerable portion of the people have yet formally complained.

"While, therefore, the legislative council desire not to conceal from your Majesty, the actual state of the province, they are far from believing that the great body of the people yet participate in the views and wishes of the majority of the assembly, but in a community in which education has made so little progress, even the well-disposed, the happy, and contented, are too liable to be misled by the factious and designing.

"The constitution enables your Majesty to uphold an independent branch of the legislature, by a judicious selection of the members chosen to compose it, and we venture, with all humility, to state to your Majesty, that a branch so chosen is essential to sustain your royal prerogative, to maintain the connection, which happily subsists between this colony and the mother country, and to give security to a numerous class of your Majesty's subjects of british origin, now numbering about one hundred and fifty thousand souls, scattered over this province, whose interests cannot be adequately represented in an assembly, seven-eighths of the members whereof are of french origin, and speak the french language.

"It is under the circumstances above described that the assembly have proposed to your Majesty to abolish this house, and to substitute in its place a council to be elected by proprietors of estates of ten pounds annual value; a

measure well conceived to further the desired object of obtaining a legislative body, in all respects, the counterpart of the assembly, inasmuch as that would virtually embrace the whole constituency of the country. Chap. XXXIII. 1833.

"Having maturely considered, we trust without improper bias, the nature of the alterations in the constitution, proposed by the assembly, we intreat your Majesty duly to weigh the opinion which we now humbly submit, as to the fatal consequences which may be expected to result from such a change. Its more immediate effects would be to render all offices in the colony elective—to unsettle the minds of your Majesty's subjects of british origin respecting the security of life and property, which they now enjoy—to prevent their further increase through emigration and to sever the ties which bind the colony to the parent state; while its ultimate result would bring into collision the people of Upper and Lower Canada and drench the country with blood, for it is our solemn conviction that the inhabitants of Upper Canada will never quietly permit the interposition of a french republic between them and the ocean.

"When the leaders of the assembly, in the year 1831, first openly declared themselves against the constitution, they found means of inducing a member of this house to proceed to England, for the sole avowed purpose of supporting the petitions of the assembly to your Majesty, and they have since, from year to year, procured the prolongation of his mission. We humbly submit that the representation made by this gentleman to your Majesty's government, ought to be received with extreme caution, because the legislative council have never assented to the mission—have never had official communication of any instructions given to him, or of despatches from him—and he has committed a gross breach of the constitutional rights of the house, by receiving a large annual salary from the assembly, knowing the same to be without the sanction of law, paid to him out of the public money, advanced upon the simple votes of that house for defraying its ordinary contingent expenses.

"Upon all these circumstances, the legislative council earnestly beseech your Majesty to take into your most serious consideration, the present alarming posture of affairs in your Majesty's once happy province of Lower Canada—to be

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graciously pleased to adopt such measures, as in your wisdom will tend to tranquilize the minds, to maintain the constitutional rights and liberties of all your Majesty's subjects therein, and thus guarantee the permanence of the existing connexion between the colony and the parent state.

His Majesty's acknowledgment of the receipt of this address was laid by message of the governor in chief before the legislative council, at the ensuing session, as follows :—

"The governor in chief communicates to the legislative council for its information, an extract from a despatch addressed to him by the secretary of state for the colonial department, in answer to the petition of the legislative council, addressed to the king, which, by desire of the legislative council, was transmitted to the secretary of state during the last session, for the purpose of being laid at the foot of the throne :—

"I have received and laid before his Majesty the address of the legislative council. His Majesty receives with satisfaction the expressions of loyalty and attachment to the constitution which are contained in this address, and he is readily induced to believe the assurance that the great body of his canadian subjects do not participate in the views of those who would be desirous to effect extensive changes in fundamental institutions of the country. Yet, his Majesty cannot but wish that in laying at the foot of the throne, the expressions of their own feelings of loyalty and attachment, they had abstained from using, with reference to the other branch of the legislature, language less temperate in its tone than is consistent with their own dignity, or calculated to maintain or restore a good understanding between the two bodies. More especially, his Majesty laments the introduction of any word which should have the appearance of ascribing to a class of his subjects of one origin, views at variance with the allegiance which they owe to his Majesty. On all classes alike his Majesty relies for a cheerful and willing obedience to the law. To all classes he will ever extend his paternal protection ; and the legislative council

may rest assured that he will not fail to secure to all, the constitutional rights and liberty which they enjoy by their participation in british institutions."

" Castle of St. Lewis, Quebec, 14th Jany., 1834."

The following message relating to the double vote of the speaker, came down at the same time with the above :—

" With reference to the address of the legislative council of the 5th of March last, relative to the double vote of their speaker, the governor in chief now transmits for the information of the legislative council, a copy of a despatch which he has received from the secretary of state for the colonial department, dated 27th July, 1833 :—

" Downing Street, 27th July, 1833.

" Sir,—I have received and laid before the king your lordship's despatch, No. 28, of the 21st of March last, enclosing an address to your lordship from the legislative council of Lower Canada, praying that a question which had arisen respecting the true construction of the act 31, Geo. III., c. 38, so far as regards the casting vote given by the speaker of the council, may be submitted to the consideration of his Majesty.

" The important subject thus brought under the notice of his Majesty, has not failed to receive all due attention. After comparing and revising the weight of the arguments to be drawn from the usage of past times in the province, from the analogy of the house of peers, and from the verbal construction of the act itself, his Majesty's government has come to the conclusion that the speaker of the legislative council has not a right to give a double vote; and that he is only entitled to vote at all when the voices of the other members of council are equally divided.—This is the opinion which has been arrived at in this country, after a very careful examination of the point under discussion. But I think it right to add, that the present communication is merely the expression of an opinion; and that if it be thought necessary to determine the question by authority,

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parliament alone is competent to furnish the final decision.

"My lord, your lordship's most obt. humble servt.,

(Signed) "E. G. STANLEY."

"To lt.-gen. lord Aylmer, K. C. B."

The health officer at Quebec having, for some malversation been removed, an address was presented requesting his excellency to communicate to the house all communications made by him to the board of health relating to that officer, and all documents received from that officer in reply thereto or in explanation thereof, and such other information having reference to the removal of the health officer, as his excellency might see fit to communicate;—in other words to make them the judges of his exercise of the prerogative on the subject.—With this also he declined compliance. "The constitution has invested,"—said his excellency—"the several branches of the legislature with certain prerogatives and privileges, the free exercise of which is essential towards enabling each of them to perform its peculiar functions.

"This principle has been recognised and acted upon by the house of assembly in its own behalf on more than one occasion; and without illustrating more particularly a subject of so much constitutional delicacy, it may perhaps be sufficient to remark that the interference of the several branches of the legislature with each other in matters connected with their respective prerogatives and privileges,

must obviously tend (if persisted in) to disturb that harmony between them which is essential to the public welfare. Chap. XXXIII. 1833.

"It was in the exercise of the undoubted prerogative of the crown that the health officer at the port of Quebec was removed from office, and the documents now prayed for by the house of assembly, the knowledge of which documents I have, on the present occasion, considered it expedient to withhold, abundantly prove that his continuance is incompatible with the due regard to the preservation of the public health, on the part of the executive government."

The formation of a land company in London, for the purpose of purchasing lands in the eastern townships in Lower Canada and colonising that section of the province by emigrants from the United Kingdom, had created a stir in Lower Canada, the population of which eyed with jealousy a measure which it was represented to them was an intrusion upon their rights, the waste lands of the crown being in consequence of the capitulations at the conquest, it was pretended, virtually their patrimony, and to be reserved for them and their descendents to the exclusion of immigrants, and that the scheme of immigration for the settlement of those lands was in the end to swamp the population of french origin.* The

"* To the King's Most Excellent Majesty.

"May it please your Majesty,—We, your Majesty's dutiful and loyal subjects the the commons of Lower Canada, in Provincial Parliament assembled, being fully persuaded of your Majesty's solici-

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subject was taken up as one of the grievances of the day, and an address to the king voted on

tude to prevent any attempt to deprive your faithful canadian subjects of the advantages which are happily insured to them, and particularly in sharing in the distribution of vacant lands in this province, and perpetuating themselves in it with a prospect of durable happiness and attachment to the government of your Majesty, most humbly approach your royal person, respectfully to expose:—

"That the inhabitants of this province have seen with alarm the proposed formation of a company of individuals in the United Kingdom, whose object would be to speculate in the purchase of waste lands in this province, so as to deprive your Majesty's canadian subjects of a free access thereto, by encouraging stock-jobbing and monopoly, and increasing the difficulties hitherto presented to their settlement thereon.

That all sales or grants of waste lands in this province, made by your Majesty's government to any such company, and all privileges to them granted, tending to diminish their obligations and legal responsibility as commonly attendant upon agreements, would be calculated to aggravate those difficulties, and to deprive the inhabitants of this province of the lawful hope, founded upon the ancient laws of the country, of obtaining on easy and definite conditions, lots of waste lands for cultivation and settlement.

"That the operations of the said company would create in this province an influence independent of your Majesty's government therein, and would maintain, as agents or otherwise, in opposition to the interests of the people, a class of men possessing great power and pecuniary resources, without sufficient responsibility.

"That the operations of the said company would be of a nature to create in this province a system of absenteeism which would occasion a continual draining of its capital without an equivalent in return.

"That while your Majesty's subjects in the United Kingdom, and elsewhere, by their multiplied and easy communications with individuals interested in the said company, could procure access to the said lands, the inhabitants of this province would be deprived of the same, by want of institutions and regulations proper for supplying the same.

"That the waste lands in this province could, without the interference of such company, be conceded more judiciously, and with more advantage to your Majesty's subjects in general, who may be disposed to settle thereon, and to those of this province in particular, by means of regulations adopted by the provincial legislature, which alone is fit and competent to provide therein, in an effectual manner, and agreeable to the situation and wants of the country.

"That the establishment and support of any exclusive system whatever, for conceding and distributing the said lands, without the concurrence of the colonial legislature, is in direct contravention to the fundamental laws of this country, and to the gracious intentions

the subject. In discussing the address in committee, Mr. Papineau (who when relieved from

of your Majesty in this respect, expressed on various occasions, and especially by the despatch from the right honorable viscount Goderich to his excellency the governor in chief of this province, dated the 21st November, 1831.

" Wherefore, we beg leave most humbly to entreat your Majesty, that none of the waste lands of the crown in this province, or any charter or privilege whatever, be granted to the said company; and also that your Majesty will be pleased to protect, in the premises, the rights and interests of your canadian subjects, in such manner as your Majesty shall deem most expedient

" And as well by inclination, as in duty bound, we shall ever pray for your Majesty's royal person."

The following resolutions passed in committee of the legislative council, are expressive of the views entertained by that body on the subject of the foregoing address:—

" Resolved, as the opinion of this committee, that the waste lands of the crown in this province, are vested in the king, and placed under the exclusive management and controul of his Majesty in trust for his subjects; no portion of whom wherever born or of whatever origin, have any exclusive or prescriptive right to the same.

" That the settlement of the said lands is of vital importance to this province, as the means of augmenting the power and resources thereof, and to the parent state, by extending the consumption of british manufactures, and adding stability to the influence and dominion of the United Kingdom in this portion of the empire.

" That the settlement of the said lands has been retarded and is still impeded by the want of suitable communications therewith, and for the formation and improvement of which the resources hitherto relied on from the provincial legislature, have been and are still believed to be wholly inadequate.

" That the establishment of a joint stock company, upon the principle, and with the professed views of the British American Land Company, would powerfully aid and accelerate the settlement of the waste lands in this province, and essentially conduce to the attainment of the provincial and national advantages anticipated therefrom.

" That under suitable regulations and restrictions, the operations of such a company could not fail to be productive of reciprocal advantages to the company and the colony, as experience has shewn to be the result of similar associations in the province of Upper Canada and in the neighbouring States.

" That there is no reason to apprehend that the operations of such a company would deprive his Majesty's canadian subjects of free access to the waste lands of the crown, or create, in this province, an influence independent of his Majesty's government, and in opposition to the interests of the people.

" That the townships situated on the south side of the St. Lawrence, contain a population of upwards of 40,000 souls, whose enter-

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the chair, by the house resolving itself into committee of the whole, generally indulged in long and discursive speeches, and for the most part remarkable for the acerbity that ran through them) made some remarks in french affecting the members from the eastern townships (with whom the formation of the company alluded to, incorporated by act of the imperial parliament, was a popular measure, as tending to improve their country by the opening of roads and settlement of the wilderness in the midst of which they resided,) but not understood at the moment by them. Fired, when informed of the unworthy imputation cast upon them, Mr. Taylor, the representative for Missisqoui, sent to the Quebec Mercury the article below,* which being taken up in the house

prise and industry, as well as the natural resources of the country, are rendered in a great measure unavailable, by the imperfect and unimproved state of the roads and rivers communicating therewith.

"That the increased facilities of communication which the company would afford, by the introdution of capital and enterprise, would greatly tend to develope the dormant resources of that extensive (and with reference to climate) highly favoured portion of this province, in giving increased value to property therein, and while thus advancing the welfare and prosperity of the inhabitants thereof, would at the same time render the province more extensively available for the reception of emigrants from the United Kingdom.

"That it is expedient to present an humble address to his Majesty, praying that his Majesty will be graciously pleased to afford encouragement to the British American Land Company, or some other company with similar views, by conceding to the same such portion of the waste lands of the crown in this province, upon such terms, and under such conditions and restrictions, as to his Majesty shall seem fit."

* "Sir,—I was present in my place last night when Mr. Papineau delivered his speech upon the resolutions in relation to the formation of the Lower Canada Land Company—although I have very frequently had occasion to regret my inability to understand the french language, it was never more so than on that occasion—for I have

as a contempt of it, he at once manfully acknowledged it to be his production. It was, on motion of Mr. Bourdages, seconded by Mr. Lafontaine, voted "a malicious libel against the speaker of this house, an infringement of the liberty of debates therein, and a breach of its just rights and privileges," and it was ordered that Ralph Taylor, esquire, be for the said offence sent to the common gaol of the district of Quebec, for twenty-four hours, and that Mr. Speaker do issue his warrant accordingly. It need scarcely be said that Mr. Taylor acquired popularity by this circumstance, and that to and from the prison in which, for this instance of his patriotism and and spirit he was incarcerated, he was attended by the acclamations of approving hundreds, who assembled to cheer the man who had evinced the courage to beard the lion in his den, for such Mr. Papineau, at the time, was considered.



The vacation of Mr. Mondelet's seat on the

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since been informed, that among many other calumnious statements, he took occasion to say—"*The inhabitants of the townships having forsaken the country of their birth, were now ready to* SELL *that of their adoption.*"—I throw back the base imputation. The inhabitants of the townships require no champion to proclaim their loyalty and patriotism—they are known and appreciated. And I here beg leave to assure Mr. speaker Papineau that *personally*, there is a perfect reciprocity of sentiment between him and them—that they individually and collectively, *despise* him and his principles, and his politics, as heartily and sincerely as he can possibly those of the inhabitants of the townships.

"Yours, &c.,

"RALPH TAYLOR, M. P. P.,

"For the County of Missisquoi."

"To the Editor of the Quebec Mercury."

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24th Novr., has already been noticed. The speaker's warrant for a new writ of election had issued on the 27th of the same, but the governor had not thought proper to act upon it, by issuing a writ of election. An address praying his excellency "to communicate to this house the circumstances and reasons which had hitherto retarded the execution of the warrant for the issuing of a writ for the election of a representative for the county of Montreal, in the place of Mr. Mondelet," was voted on the 5th March. To this an answer was transmitted by message, stating at length the reasons that had prevented him from issuing the writ, and that in the embarrassment he had felt on the subject, he had reported the circumstances of the case to the colonial secretary, from whom he said it was probable he would in a short period, receive instructions for his guidance. His excellency concluded by observing that—"The question regarding the issue of a writ for the election of a member for the county of Montreal, having now been suffered to remain undisturbed during a period of more than three months, it may possibly be suffered to remain without further notice, without being productive of any serious inconvenience to the business of the house, until the governor in chief shall have it in his power to make a communication to the house from higher authority.

"The governor in chief earnestly recommends the above suggestion to the serious consideration of the house of assembly, it being

of the greatest importance to the interests of the province at large, that the proceedings of the house should suffer no interruption that can possibly be avoided, in the present stage of the session, when so many matters of importance remain to be disposed of."

This message (of the 8th March) was immediately referred to the "standing committee of privileges and elections" and on the 12th the committee reported upon it, concluding its report as follows:—"If instead of doubts and uncertainties, the governor in chief has become convinced that the house had adopted in any manner whatsoever wrong measures, he may appeal to the opinion of the people, for whom and by whom the assembly is constituted, and who must in the end determine and judge of the merits or demerits of all public functionaries, or of the goodness or badness of their administrative measures."

"The governor in chief has not made use of the royal prerogative, which upon his own responsibility, he might at any time have made use of, by a dissolution of parliament. He has, in violation of the constitution and of the laws of the province, and an infringement of the privileges of the house, for a long time and until the present time, prevented the county of Montreal from being represented.

"Under these circumstances which must put an end to every feeling of good understanding between his excellency the governor in chief and the house of assembly, the house ought

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perhaps to suspend all further proceedings, and all communication whatsoever with his excellency, until he has made reparation for this breach of its rights and privileges. The only circumstance which may induce them to defer the communication of such a determination to the governor in chief, is the indispensable necessity of passing a bill with the view of preventing, as far as human means may permit, by a proper system of quarantine, the return of the cholera morbus, or to diminish its ravages, if it breaks out afresh in this province, as there is but too much reason to fear."*

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* It may be remarked here that while the assembly were evincing so much sensibility at the non-compliance of the governor with the speaker's warrant, which had issued at the moment of Mr. Mondelet's exclusion, for a writ of election for the county of *Montreal*," they had not themselves been so anxious about Gaspé, no warrant having been ordered for an election to replace Mr. Christie, expelled at the first sitting, (15th Nov. 1832) until nearly two months afterwards. It is also to be observed that while the assembly were thus anxious about the writ for the county of Montreal, they in fact refrained from issuing any warrant for a writ of election for the West Ward of Montreal, in room of Mr. Tracey, who had died of Cholera.

The remarks which follow, touching this matter, appeared in Mr. Neilson's Quebec Gazette :—" A long debate took place last night, in the house of assembly, on the question of concurrence in the report of the committee of privileges, on the subject of the delay in issuing the writ for the county of Montreal. It occupied the whole sitting, which closed after ten o'clock. The report was carried on a division of 38 to 25 and 35 to 27. Of the members present at the call of the house on Tuesday, the following were absent at the division:—Messrs. Badeaux, Boissonnault, Caldwell, Clouet, De Tonnancour, Gugy, Methot, Noël, Stuart, P. E. Taschereau, A. C. Taschereau, Taylor, Tradel, and Vanfelson—(14.)

" The report remains on the journals ; and the cessation of " all further proceedings, and all communications whatsoever with his excellency until he has made reparation for this breach of its rights and privileges," is only refrained from on account of the necessity of passing a Bill with the view of preventing the " return of the Cholera," as there is but too much reason to fear.

" As to the merits of the question, that remains to be examined by

In the midst of the *tracasseries* levelled at the governor, an humble address was presented to his excellency on the 28th February, praying that he would cause to be laid before the house copy of a letter addressed to him by the honorable Louis Joseph Papineau, dated the 22d May, relating to the events of the 21st



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the public, or the people, who, as the report says, "must, in the end, determine and judge of the merits or demerits of all public functionaries." We apprehend that they are, in the end, very good judges, although, like all other judges, they err sometimes. The public has manifestly the advantage of those who are the actors; who are engaged in public functions, legislative, administrative, or judiciary. They are lookers on; in some measure indifferent to the contentions which occur among public men, and influenced by the personal feelings which arise out of these contentions; and they see and remember a great many things, which the actors either do not see at all, forget, or think are not observed by the public.

"We dare say, that the part of the public which has hitherto given any attention to the question, has already perceived the influence of the Montreal election, of 21st May on this, as on every other question of a political nature which has arisen during this Session. We dare say, they remember how the house rung during the previous sessions with the praise of the governor, and how it has rung during the present. They have seen how Mr. MONDELET was quarreled with, for doing what Mr. Panet had done with the approbation of the house—how Mr. M. was driven from his seat; the executive left without any authorised channel through which explanations could be made or obtained—how the governor was assailed with addresses for information, and the palpable object and character of some of those addresses—how very strangely the warrant for a writ for the West Ward of Montreal was delayed, on the ground of danger of riot, and the magistrates and the military, while an immediate issue of the writ calling on the very same electors to act, in the immediate neighbourhood of the same magistrates and military, is urged, and made a subject of disrespectful expressions, and accusations against the governor,—a just ground for putting an end to the whole business of the country, and throwing every thing into confusion, were it not for fear of the Cholera! Well, we are glad the Cholera has at last been found good for something. But the public, having observed all these things, and seeing their bearing on the present question, will set to work, in their own common-sense way, to judge of the present question rather by what they know than by nice questions of privilege, prerogative, and law, which they may look into when they have leisure."

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of the same, to which the following message in answer came down:—

"In answer to the address of the house of assembly of the 28th ult., the governor in chief informs the house, that towards the latter end of the month of May last, a letter from the honorable Louis Joseph Papineau, was delivered to him on the subject of the riot which had then recently taken place at Montreal, and containing certain suggestions regarding the conduct to be pursued by him on that occasion. As the writer of that letter, although entitled from his situation as speaker of the house of assembly, to every attention which the rules of good breeding enjoin, was not invested with any public or official character of a nature to justify the governor in chief in engaging in a correspondence with him upon a subject of such grave importance, involving the responsibility of the governor in chief in the exercise of the functions of his high office, the said letter was treated as a private communication, and therefore was not classed among the official documents in the civil secretary's office, or amongst those which the governor in chief retains in his own possession; he has, however, much satisfaction in informing the house, that he has succeeded in discovering it amongst his private papers; and since some degree of importance appears to be attached to the said letter by the house, a copy of it having been prayed for in their address, he now transmits it in original.*

"Copies of certain official documents connected with the second arrest of lieut.-colonel Macintosh and capt. Temple, are likewise transmitted; and others relating to the same subject will, in like manner be transmitted as soon as possible for the information of the house.

"In answer to the concluding part of the address of the house, praying to be furnished with copies of all reports, if there are any, of the solicitor-general, in which he might have suggested the expediency of additional measures of precaution, or correspondence suggesting particular measures of precaution, either on the part of the civil or military authorities, "which induced his excellency to augment the garrison of Montreal," the governor in chief considers

* See Appendix, letter C.

it to be sufficient to inform the house, that the precautionary measure above alluded to, of augmenting the garrison of Montreal, originated in the suggestions of his own mind, and was prompted by his anxiety to quiet the alarms of the peaceable inhabitants of Montreal, and to provide for the security of their persons and property."

"Castle of St. Lewis, Quebec, 2d March, 1833."

A supply for the current year, though not to the amount required, being voted towards the close of the session, the bill, embodying the votes, was sent up to the council where it was lost. The resolutions inserted below may, in part, explain the reasons of its rejection. The sum called for, as previously mentioned, was £54,604 sterling, that voted, £47,253, the votes being upwards of £7,000 short of the sum required.*

* 1. "That the communications made to this house, during the present session, by his excellency the governor in chief, relative to the public revenues of this province, and of the expenditure of the same, as well by divers messages on his part, as by his answers to the addresses presented to him, from time to time, do not sufficiently shew what those funds are which his Majesty's executive government claim to be at the disposal of the crown in this province, without the authority of the provincial legislature.

2. "That the said communications do not shew out of what funds his Majesty's executive government, as was declared by his excellency's message of the 21st of November, 1832, and in his answer of the 4th of February, 1833, to the address of this house of the 30th of January preceding, intend to defray the salaries mentioned in a certain proposed civil list, transmitted to this house by messages of the 5th December 1831, and the 21st January, 1832.

3. "That the said communications do not give a satisfactory account of the receipt and employment of the whole public revenues of the province, which ought to be, and of right are, subject to the controul of this house.

4. "That the insufficiency of the said communications, renders it inexpedient that any grant of supplies for providing for the expenses of the civil government, and of the administration of justice in this province, should be made by this house, during the present year, unless such supplies are to be paid out of the sources of revenue hereinafter mentioned, in preference to all other expenditure, viz:—in the first place, out of and to the full amount of the revenue arising from

A bill, as at the previous sessions, had been sent up to the legislative council appointing

the act of the parliament of Great Britain of the 14th Geo. III., cap. 88, intituled, "An act to establish a fund towards further defraying the charges of the administration of justice and support of the civil government within the province of Quebec, in America," for the year beginning the 11th of October, 1832. Secondly; out of and to the full amount of the casual and territorial revenues of the crown in this province, as mentioned in the message of the right honorable Guy, lord Dorchester, dated the 19th of April, 1794, including the revenue arising from the sale of crown lands, and from licenses for cutting timber, for the year beginning the 11th of October, 1832. Thirdly; out of and to the full amount of the revenue arising from the act of the provincial legislature, of the 33d Geo. III., cap. 8, intituled, "An act to establish a fund for paying the salaries of the officers of the legislative council and assembly, and defraying the contingent expenses thereof," for the year beginning the 11th of October, 1832. Fourthly; out of and to the full amount of the sum of five thousand five hundred and fifty-five pounds eleven shillings and one and one-third penny curreney, to be appropriated every year towards the said purposes in a general manner, by the act of the provincial legislature of the 35th Geo. III., cap. 9, intituled, "An act for granting to his Majesty, additional and new duties on certain goods, wares and merchandizes, and for appropriating the same towards further defraying the charges of the administration of justice and the support of the civil government within the province, and for other purposes therein mentioned," for the year beginning the 11th October, 1832. Fifthly; out of and to the full amount of the revenue arising from the act of the provincial legislature of the 41st Geo. III., cap. 13, intituled, "An act for granting to his Majesty a duty on licensing Billiard Tables for hire, and for regulating the same," for the year beginning the 11th of October, 1832. Sixthly; out of and to the full amount of the revenue arising from the act of the provincial legislature of the 41st Geo. III., cap. 14, intituled, "An act for granting to his Majesty certain new duties on the importation in this province of all manufactured tobacco and snuff, and for disallowing the drawback on tobacco manufactured within this province," for the year beginning the 11th of October, 1832. Seventhly; out of and to the full amount of the several balances in the hands of the receiver general of the public revenues of the preceding years, including therein those arising from the several sources of revenue hereinbefore enumerated. Eighthly; in case of the insufficiency of the funds before mentioned, out of all the other unappropriated monies which may be in the hands of the receiver general also, in preference to every other expenditure.

5. "That this house have always been anxious to detail in the bills granting the supplies, which they have passed from time to time, the several special purposes for which those grants were made; and that they have only dispensed therewith, on account of the opposition dis-

the honorable D. B. Viger, (still in England) agent for the province, but the bill being in danger, it was resolved to be "expedient that the said D. B. Viger, now in England, continue therein for the present year, to represent to his Majesty's government the interests and sentiments of the inhabitants of this province and

played to each bill conceived in such terms, by the two other branches of the provincial legislature.

"That this house ought not to proceed to take into consideration the demand for supplies made to them, for the present year, excepting under the declarations and reserves, made by them on that subject in the preceding sessions."

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In voting the supplies, for the current year, the following alterations have been made on the estimate by the committee of the assembly and concurred in by the house:—

SUMS WHOLLY REFUSED.—Postages of civil departments, £1,300—Office rent of the registrar of crown lands, £54—Salaries of four members of the executive council, *five* only are granted instead of *nine*—Assistant secretary, executive council (G. Ryland, esq.)—Do. of keeper of the apartments house of assembly £49 10s.—Retired allowances to treasurer and secretary to the Board for managing the late Jesuits' estates (the hon. H. W. Ryland and George Ryland, esq.)—Salary of clerk of appeal.

SALARIES VOTED WITH RESTRICTIONS.—Clerk of the executive council; if not a member of the executive council.—Clerk of crown in chancery; if not a member of either council.—Clerk, assistant clerk, and law clerk, legislative council; if not members of executive council; the latter not to hold any judicial situation.—Judge of the court of vice-admiralty; not to hold any other place of profit.—Sheriffs of Quebec, Montreal, and Three Rivers; provided these officers are not members of the legislative council.—Commissioner of Jesuits' estates; provided he is not a member of either council.

REDUCTIONS.—£225 from sum estimated for contingent account of the legislative council.—£1,200 instead of £2,200 contingent account of law officers of the crown.—£1,200 instead of £1,400 for the contingent accounts of Sheriffs of Quebec and Montreal, and £130 deducted from the sum estimated for the account of the sheriff of Three Rivers.—Salaries of masters of grammar schools at Quebec and Montreal £100 per annum. instead of £200, with an obligation to receive 25 free scholars.—The house rent of the masters has not been reduced; nor the salary (£26) of the secretary of the royal institution. The salaries of the medical attendants at the gaols of the three districts are also reduced. The pensions have all been voted.—*Quebec Mercury.*

Chap. XXXIII. 1833. support the petitions of this house to his Majesty and both houses of parliament," and £1,700 for these purposes were voted, to be advanced and paid him on his order, by the clerk of the assembly out of the contingent fund thereof.

Towards the close of the session, an instruction, by order of the house, was given "to the standing committee of privileges and elections, to ascertain and report the several occasions on which his excellency the governor in chief had declined to give the information and documents which the house had, from time to time, requested from him during the present session." The committee reported, and the following resolutions were thereupon adopted:—

"That this house have always given the most favorable attention to the several communications which it has pleased his excellency the governor in chief to make to them from time to time.

"That this house, with the view of conducting the public business in such a way as to promote the good government of this province, and the welfare and interests of its inhabitants, have, on various occasions, since the commencement of the present session, presented several addresses to his excellency the governor in chief, on divers matters which formed the subject of their deliberation, and amongst others, the addresses enumerated in this report.

"That this house perceive with great regret, that his excellency the governor in chief has absolutely refused to comply with the requests of this house expressed in several of those addresses; and that he has not yet laid before this house various important documents which were required of him, although his excellency did, for a long time before, promise to communicate the same.

"That the intention of those several addresses was to facilitate the labours of this house, and to place them in the

situation of being able to make laws and regulations for the welfare of the people of this province, and the good government of his Majesty's subjects therein.

"That his excellency the governor in chief, by refusing to comply with the requests of this house, thus expressed in several of their addresses, and in delaying till hitherto the communication of various important documents which he had promised, has greatly contributed to prevent this house from effectually proceeding in public business, to the detriment of the good government of his Majesty in this province, and of his faithful subjects therein."

On the second day after the adoption of these, the following message from his excellency was sent down to the assembly:—

"The governor in chief transmits to the house of assembly some of the various documents which have been prayed for by the house at different periods during the present session; others which are in progress will, within a short period, be transmitted in like manner.

"Many of these documents having rendered some research necessary in the records of the offices in which the originals are deposited, and being voluminous, it is satisfactory to the governor in chief to find himself enabled to communicate them to the house before the close of the session, an event which to all appearance is still sufficiently remote, in consequence of the mass of business which is daily reaching the legislative council from the house of assembly, to enable the house, if it shall see fit, to enter now into the consideration of the subjects with which the documents herewith transmitted are connected."

"Castle of St. Lewis, Quebec, 22d March, 1833."

An address to the king relating to the post office, was forwarded a day or two before the prorogation, stating—"That it would afford much satisfaction to his Majesty's subjects in this province, if the Post Office department were so far placed under the control of the colonial legislature, that the regulations established

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for the conveyance of the mails, the allowances to the different officers, and a general statement in detail of the receipts and expenditure, were annually laid before the legislature, to the end that the public may know in what manner the revenue arising from the conveyance of letters and news-papers is appropriated.

"That the Post Office department in this colony should not be made the means of raising a revenue beyond the necessary expense of establishing Post Offices wherever they may be required, and if it shall be found that the present rates of postage on letters are more than sufficient for that object, that they may be reduced to a scale sufficient only for the necessary support of the department; and in the event of surplus funds, that the same should be at the disposition of the legislature for the purpose of facilitating the communications by Post throughout the country.

"That newspapers transmitted by mail have always been subject to a very heavy and arbitrary charge, payable not only by persons to whom they are addressed, but by the publishers, to the great injury of public enterprise, and the dissemination of useful information."

Wherefore they humbly prayed his Majesty to take the same into his most gracious consideration, and afford such relief to his Majesty's subjects as should be deemed most expedient.

It was also ordered "that copies of the several reports made in the years 1831 and 1832, and this year, by the special committees to

whom the petitions of the printers and of Robert Armour, junior, had been referred, and also the evidence taken before the said several special committees, be transmitted to his Majesty's ministers with the said address." Chap. XXXIII. 1833.

The month of March was drawing to a close, and the house having adjourned for want of a quorum during several successive days, it was evident there was no longer any disposition in the assembly for business, particularly as it had been resolved by it, that the inquiry into the events connected with and which led to the interference of an armed military force, at the late election of a representative for the west ward of the city of Montreal, should be postponed and again taken into consideration in the next session, a speedy prorogation was therefore expected. It accordingly took place on the 3d April, the governor expressing himself as follows on the occasion:—

"Gentlemen of the legislative council, gentlemen of the house of assembly,—You are now about to return to your respective homes, there to enjoy the repose which the labours of this protracted session have rendered necessary.

"Gentlemen of the house of assembly,—In his Majesty's name, I thank you for the pecuniary aids towards carrying on internal improvements, and other objects of utility, which your liberality has placed at the disposal of the executive government. Among these I much regret that I am not enabled to enumerate the necessary provision for giving full effect to a system of quarantine, calculated to meet a visitation of disease similar to that with which it pleased Divine Providence to afflict this province in the course of the last summer. Had this subject been permitted to engage your attention at the commencement of the session, sufficient time would probably have been afforded for the considera-

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tion of any difference of opinion which might have arisen upon it, between the two houses of the provincial parliament, and some well digested and efficient measure might have been framed, and concurred in by both houses before the close of the session.

"The consideration of this important subject not having, however, been taken up until an advanced period of the session, I must take it for granted, that other matters posessing in your judgment greater interest, and of more urgent importance, have been allowed to take precedence of it.

"Fortunately the quarantine act of 1795, remains in force, the provisions of which aided by the voluntary exertions of the inhabitants of the province in general, will, I trust enable the executive government to establish such regulations as circumstances may render necessary.

"Gentlemen of the legislative Council, gentlemen of the house of assembly,—The session which is about to terminate has been remarkable for its unusual duration, being, with the exception of three of the earliest which followed upon the establishment of the constitution of Lower Canada, the longest to be found recorded in your parliamentary history—whether the result of its labours will prove beneficial to the country in a corresponding proportion to its duration, time alone must determine."

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The following extract from an anonymous but interesting *brochure*, the work, as we have reason to know, of the Revd. T. Maguire, at the present time (July 1850,) Chaplain to the Ursuline Convent at Quebec, and published in this city, in 1833, (chez Neilson et Cowan) gives the best synopsis of the roman catholic *Etat Ecclesiastique* of Canada, at that period, we have seen. Mr. Maguire's statistical knowledge of the subject on which he writes, and his well known accuracy are such as may be relied upon. It is valuable as an historic and statistical document, and here recorded as such

in the original language, lest in the translation we might do it injustice. The work is intituled Chap. XXXIII.

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" Le Clergé Canadien vengé par ses ennemis ; ou Observations sur un ouvrage recent, intitulé, " Tableau Statistique et Politique des deux Canadas."

" Nous comptons 170 curés, et environ 190 cures. Les revenus de ces 170 curés sont partagés comme suit :—

| | | | | |
|---|---|---|---|---|
| 80 | curés environ reçoivent par année, chacun..... | de £ 75 | à | £100 |
| 50 | do..... | de 100 | à | 150 |
| 30 | do..... | de 150 | à | 250 |
| 10 | do..... | de 250 | à | 350 |

" En prenant le moyen terme de ces sommes, nous aurons:

| | | | | |
|---|---|---|---|---|
| 80 | curés à £ 87 | 10s..... | | £7,000 |
| 50 | do. à | 125..... | | 6,250 |
| 30 | do. à | 200..... | | 6,000 |
| 10 | do. à | 300..... | | 3,000 |
| curés 170 | | .....Leurs revenus, | | £22,250 |

" Notre dernière opération est de diviser ces £22,250 par170. Le quotient donnera à chaque curé £130 : Plaçons maintenant cette somme à côté des £306 du " Tableau," et livrons-nous un moment à nos réflections. Mais attendons : notre travail n'est pas terminé : quarante-quatre vicaires partagent le poids du jour avec nos dignes curés, et en bonne conscience ils doivent vivre de l'autel. Nouvelle opération donc, qui donne pour résultat £103, et c'est ce dernier chiffre qu'on doit placer en regard des £306 du " Tableau." Voilà, lecteur, le revenu qui scandalise nos amis et parens libéraux, et qu'ils cherchent à diminuer de moitié pour offrir à 80 curés et 44 vicaires, c.-à d. à 124 prêtres de notre clergé, à chacun un revenu annuel de 36 à £50. Quelle générosité ! ! !

" Mais puisque nous sommes en si bonne route, il est juste que, pour l'information de nos honnêtes concitoyens catholiques, nous parachevions le tableau, le nôtre, bien entendu, des revenus personnels de notre clergé, journellement calomnié sur cet article. On feint de croire que les membres de nos grandes maisons nagent dans les richesses, et tournent à leur profit les revenus de leurs terres. Rien de plus opposé à la vérité ; ils ne sont que les simples ad-

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ministrateurs de ces biens au profit de la religion ; ils sont moins rétribués en réalité, que les moindres vicaires, puisqu'ils n'ont strictement que le *victum et vesticum* de l'Evangile. Et on sera peut-être étonné de savoir que ces respectables hommes, avec les vicaires, les chapelains et les prêtres employés à l'enseignement (voyez l'Almanach de Québec,) forment un grand tiers du clergé du diocèse de Québec.

" Le tiers du clergé du diocèse de Québec sans revenus ! Quel argument que celui-là ! O lecteur !

" Mais le reproche de richesses, si perfidement addressé à notre clergé, est un raffinement de cruauté, quand on connaît le noble emploi qu'il fait de ses modestes revenus : et à combien de besoins il est tenu de faire face. Toujours à côté de l'infortune, et au chevet du lit de l'infirme, nécessairement le ministre de la religion tend une main secourable. La misère se dirige naturellement vers la demeure du prêtre ; et au curé, seul homme d'éducation dans la plupart de nos campagnes, est dévolu le devoir de l'hospitalité envers les gentilhommes de toutes les couleurs et de toutes les nuances.

" Et c'est en présence de tous ses faits, que des sibarites qui regorgent des biens, des hommes, qui se piquent d'honneur, reprocheront éternellement au clergé son modique salaire ; salaire qui suffiraient à peine à un employé de bureau, au soutien de la famille d'un artisan ! C'est avec ce touchant tableau devant les yeux, qu'ils émetteront le vœu barbare de voir ce clergé privé de tous moyens de subsistance et réduit à mendier son pain ! Ce clergé qui a fondé et payé seul, jusqu'à ces années dernières, les dix-neuf vingtièmes de nos écoles et établissemens pour l'enseignement !"

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Comparative Statement of arrivals, tonnage, and emigrants, at the Port of Quebec, since 1818, taken from the Exchange Books :—

| YEAR. | VESSELS. | TONNAGE. | EMIGRANTS. |
|---|---|---|---|
| 1819 | 631 | 155,518 | 12,907 |
| 1820 | 576 | 148,195 | 11,239 |
| 1821 | 418 | 100,646 | 8,050 |
| 1822 | 586 | 146,188 | 10,468 |
| 1823 | 542 | 131.862 | 10,258 |
| 1824 | 603 | 148,581 | 6,515 |
| 1825 | 762 | 191,614 | 9,097 |
| 1826 | 694 | 178,792 | 10,731 |
| 1827 | 600 | 152.764 | 16,862 |
| 1828 | 701 | 153,255 | 11.697 |
| 1829 | 861 | 234 301 | 13,357 |
| 1830 | 855 | 225,138 | 24.391 |
| 1831 | 1009 | 259,878 | 49,259 |
| 1832 | 961 | 248.038 | 51,422 |
| 1833 | 1007 | 271,147 | 22,062 |

# CHAPTER XXXIV.

Public meeting at the Quebec Exchange, and address to the king—British American Land Company—Corporations of Quebec and Montreal—meeting of Parliament—speech—address—assembly decline nominating a committee of good correspondence with the legislative council—inquiry into the events of 21st May 1832 resumed—several important messages—address of the assembly for money to defray contingencies—answer—answers to other addresses—castle of St. Lewis destroyed by fire—estimate for the year—revenue—embarrassment of assembly from want of funds—bill for securing independence and dignity of both councils, and the judicial body—bill for trial of impeachments by the assembly—resolutions relating to hon. D. B. Viger—house in committee on state of the province—ninety-two resolutions—address to the king in conformity—address of the legislative council—prorogation.



A public meeting was held shortly after the prorogation, at the Exchange in the city of Quebec, of persons in favour of the constitution. Here several strong resolutions,* expressive of attachment to his Majesty's person and government and disapproving of the course of the assembly were passed. An attempt was at first made to interfere with the proceedings of the

* The resolutions adopted at this meeting, and the petition to his Majesty framed thereon, will be found in the Appendix, under the letter D.

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meeting, by certain partisans of the assembly, who, however, finally withdrew. Upon these resolutions an address was framed to the king. Several meetings were also held in other parts of the province for the same purpose, consisting principally of persons of british origin. In fact, it was now but too evident that the races, of british and french origin, in the province, were at issue, the former for maintaining the constitution inviolate, with such reforms nevertheless as might be necessary to its purity and independence of action, the latter for subverting it. Great acerbity of feeling prevailed from these different views, and it was evident that a crisis and collision, at no distant period, must be the result. A feeling of hostility between the labouring classes of those origins in Quebec and Montreal, prevailed during the following summer.

The British American Land Company, about which the assembly had evinced so much jealousy, went into operation this season. The capital was £300,000, in 6,000 shares of £50 sterling, each, one thousand of which were reserved for inhabitants of the colony, in the event that any of them should choose to become stockholders in it. The company acquired, it was said, 850,000 acres of the crown lands in the Eastern Townships. The events of the summer not being of any very great interest, we shall pass over them as briefly as possible, to follow the proceedings in parliament.

The bills incorporating the cities of Quebec

and Montreal, which the session before last had been reserved for the royal pleasure, having been sanctioned, took effect this spring. The corporation of Quebec chose for Mayor, Mr. Elzear Bedard, a young advocate of fair standing at the Quebec Bar, and member of the assembly. Jacques Viger, esquire, was chosen mayor of Montreal. A series of rules and regulations for the government of the city of Quebec, was framed by the mayor and corporation, and submitted, but in the french language only, to the court of king's bench, whose sanction was necessary to give them force, but not having been submitted in english as well as in french, they were laid aside. This determination of the court not to dispense, in a matter of this sort, with the english, the language of the sovereign, in favor of the french exclusively, made much noise, and was represented as an attempt to proscribe the latter, and consequently a grievance. The matter, as will be seen, was laid hold of and made the subject of complaint in the famous "*ninety-two resolutions*" of the assembly. The french prints were vehement on the subject, one of them in particular deeming it a violation of the treaty by which Canada was ceded to Great Britain, observing that "the assembly must determine, one way or the other, if the faith pledged between nations is to be so trifled with," expressing at the same time a hope that the corporation would take steps to provoke a parliamentary investigation, which

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might tranquilize the well-founded apprehensions of a whole people.

Parliament met on the 7th January, his excellency the governor in chief opening the session with the following speech :—

" Gentlemen of the legislative council, gentlemen of the house of assembly,—The utmost diligence will be required during the session which is about to commence, in disposing of the business which remained unfinished at the close of the last session, and of other matters of local and general interest, which may be expected to claim your attention. A considerable portion of the session, moreover, will probably be occupied in the consideration of the communications on highly important subjects, which it will be my duty to make to you, in pursuance of instructions I have received from his Majesty's government.

" At the commencement of the last session I informed you that the period having arrived for effecting a new adjustment of the proportion of certain duties levied in this province, to be paid to Upper Canada under the provision of the act 3d of Geo. IV., cap. 19. The arbitrators who had been appointed on the part of Lower and Upper Canada respectively, had entered largely into the consideration of that subject, but that having separated without having come to any decision, and having moreover differed in regard to the appointment conjointly of a third arbitrator, it became necessary according to the provisions of the same act (section seventeen) to refer the matter to his Majesty's government for the purpose of obtaining the appointment of a third arbitrator under the royal sign manual.

" I have now further to inform you that a third arbitrator having been appointed accordingly, the three arbitrators proceeded to the consideration of the important subject confided to their management, when, after much discussion, in the course of which the arbitrator for Lower Canada displayed the same ability and zeal for the interest of the province as upon the occasion of the previous discussion with the arbitrator of Upper Canada, the majority of the arbitrators having assigned the proportion of one-third of the duties to the

Upper Province. It is to be regretted that the result of this decision will have the effect of materially diminishing the revenue of Lower Canada.

"Copies of the correspondence which took place between the arbitrators, upon the occasion of their last meeting, will be laid before you at an early period of the session.

"The last session having terminated without the completion of an act for more effectually providing for the establishment of a quarantine station, and other matters connected with the preservation of the public health, it was deemed advisable to revert to the quarantine act passed in the year 1795, and in order to give effect to the provisions of that act, certain measures were adopted by the executive government, the details of which will be communicated to you by message in the course of the session.

"In like manner will be brought under your notice at an early period, the information which has been received by the executive government regarding the distress stated to prevail in certain parts of the province, arising from the partial failure of the last harvest.

"Amongst the acts which are about to expire, I think it necessary to draw your particular attention to the two following:—

"First—The act 10 and 11 Geo. IV., cap. 3, intituled, "An act to provide for the better defence of the province, and to regulate the militia thereof," continued by 2d Wm. IV., cap. 55. Should it be judged expedient further to continue that act, I would recommend to you to consider the expediency of embodying in it, the provisions of the act 2d Wm. IV., cap. 42, intituled, "An act to authorize the appointment of courts of enquiry, for investigating the qualifications of militia officers in certain cases," which act is also about to expire.

"The second of these acts to which I am desirous of drawing your attention, is the act of the 2d Wm. IV., cap. 26, amended by the 3d Wm. IV., cap. 4, intituled, "An act to repeal certain acts therein mentioned, and for the further encouragement of elementary schools in the country parts of this province."

"The desire to afford to all classes of the community, the

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means of acquiring the benefit of education is so generally felt throughout the province, as to make it unnecessary for me to say more at present on that interesting and important subject, than merely to recommend to you to take into consideration the expediency of further continuing the act in question, with such alterations and modifications as the experience derived from the operation of it hitherto may suggest.

"Gentlemen of the house of assembly,—The failure of the supply bill for the service of the financial year, which terminated in the month of October last, has been necessarily productive of very serious inconvenience in carrying on the public service, and although that inconvenience has been mitigated by the application of certain funds at the disposal of the crown, to the payment in part of the salaries of public officers, and in providing for such other branches of the public service as appeared to be most inconvenienced by any delay of payment, the balance remaining unprovided for upon the estimate of that year is still so considerable as to render necessary an appeal to your liberality for making good the amount of the deficit.

"It will be my duty to make a special communication to you in relation to this important subject as soon as the customary forms of parliament will permit; and in the mean while I think it necessary to apprize you that my instructions require of me to report to the secretary of state without delay the result, whatever it may be, of such communication, in order to enable his Majesty's government to decide upon the course which it may be necessary to adopt in regard to the financial difficulties of the province. An estimate of the expenses of the civil government for the current year is in preparation, and will be submitted to you at an early period of the session.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—The people of the province are anxiously looking to this, which will probably be the last session of the present parliament, for the accomplishment of various measures calculated to promote their general welfare. I entertain a confident hope that their just expectations will not be disappointed, and that the legislature, in directing its undivided attention to objects of real utility, will prepare the way to the attainment of that exalted state of prosperity

which this country appears to have been destined by Providence to enjoy." Chap. XXXIV.

1834.

It was intended by several of the leaders in the assembly, that no business should be done this session, and that a kind of non-intercourse between that body and the executive should be established. Accordingly, immediately after the speech had been delivered and the members had returned to their own hall, it was moved by Mr. Bourdages, "That the house do form itself into committee to-morrow, to take the state of the province into consideration," that gentleman observing that he had lost all confidence in the administration, and that but for the necessity of measures to guard against the cholera, no business ought to be transacted with the present executive. A division took place, by which the motion was negatived by a vote of 36 to 17.

In the address in answer they said—"We regret that the failure of the supply bill for the service of the financial year terminated in the month of October last, has been productive of very serious inconvenience in carrying on the public service. Any information which your excellency may be pleased to lay before us, connected with this very important subject, will be entitled to the most serious consideration of this house; and we shall not fail in our determinations on matters so essentially connected with the interests of our constituents and the peculiar privileges of this house, to be guided by what we may conceive to be the

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constitutional right of this branch of the legislature, and the welfare of the province. We shall also enter, with the same views, upon the estimate of the expenses of the civil government of the current year, which your excellency is pleased to say, will be laid before us at an early period of the session.

"We most respectfully assure your excellency that, elected by the people of the province from among themselves and to return among them to partake in their lot, it must ever be our anxious desire to promote the general welfare, and that the legislature may effectually contribute to the advancement of the public prosperity of the province."

The usual standing committees were reorganized. Instances had occurred of the nomination at the beginning of a session of a committee of good correspondence with the legislative council, and Mr. Neilson, in conformity with the precedent, accordingly now moved it. The proposition, however, was ungraciously received. Mr. Bourdages considered it an insult to propose the nomination of a committee to correspond with a body "who openly declared that we wanted to establish a french republic"—Mr. Kimber "could not think of concurring in the appointment of such a committee to cultivate a good understanding with those who tell this house that it wants to destroy the constitution," &c.

Mr. DeBleury "thought there was not one *who* would consent to the appointment of such

a committee after the calumnies and abuses that had been heaped upon the house by that body; with what face could the members of this house appear before their constituents, after abandoning the privileges of the house and sacrificing the honour of the people?"

Mr. Lafontaine observed that "he saw no necessity for a committee of good correspondence."

Mr. Cuvillier said "the house must and ought to enter into good correspondence with the council, and the opposing of an appointment of such a committee was mere puerility."

Mr. Neilson finally withdrew his motion.

The inquiry into the events of the 21st May, 1832, was immediately resumed, it being also resolved that the house would, on the mornings of Mondays, Wednesdays, and Fridays, at ten o'clock, go into committee for the purpose, and the enquiry was accordingly carried on throughout the session.

The governor sent down, on the 13th January, the messages following:—

"The governor in chief in the speech with which he opened the present session, apprized the the house of assembly that it would be his duty to make a special communication to them in relation to the inconvenience which has been experienced in carrying on the public service, in consequence of the failure of the supply bill for the financial year ending in the month of October last. He now has to inform the house that although the inconvenience alluded to has been mitigated to a certain extent, by the application of funds at the disposal of the crown, the distress of the public

officers, arising from the non-payment of the salaries to which they are justly entitled in remuneration of their services, and the deficiency of available means towards carrying on the public service in other important branches of the administration, have at length brought the local government into such straits and difficulties, that, unless speedily relieved through the intervention of the legislature, the king's service, and the interests of the province must inevitably be exposed to great and serious injury. In order to make the house of assembly acquainted with the extent to which provision will be required on account of the service of the financial year ending in October last, the accompanying statement has been drawn up, exhibiting the several items of the estimate sent down to the house during the last session; the amount since paid on account of each item, and the balance now remaining to be provided for.

"The funds appropriated by acts of the provincial legislature, and others at the disposal of the crown for the support of the civil government, and the administration of justice, which have been resorted to for the payments already made, are the following, namely:—

"Annual aid to his Majesty by the provincial act 35th Geo. III. Proceeds of do. 41st Geo. III. Casual and territorial revenue.

"Having thus far fulfilled his duty in laying before the house of assembly the wants and difficulties of the executive government, the governor in chief, now informs the house, that having transmitted to the secretary of state, a copy of the supply bill as it passed the assembly, and was afterwards rejected by the legislative council, he has been instructed to point out the constitutional objections to which that bill is liable.

"The various conditions which require that certain officers should not be members of the executive or legislative councils must be considered (in parliamentary language) "Tacks," the effect of which is to introduce changes in the law by the decision of a single branch of the legislature. To tack to a bill of supply demanded by the exigencies of the state a clause or enactment not properly connected with it, in order to compel the crown or upper house to make their choice between the loss of the supply with all the conse-

quent mischiefs on the one hand, or the adoption of a measure which they disapprove on the other, is a practice which, though formerly attempted in the mother country, has long since been discontinued as directly tending to wrest from the king and the peers, their share in the general legislation of parliament.

"Therefore, had the consideration of the very serious inconvenience sustained from the loss of the supply bill, induced the legislative council to sanction the bill of last year in the form in which it left the house of assembly, the governor in chief has been given to understand that his Majesty could not have been advised to give his sanction to the enactment.

"Nevertheless, the governor in chief has been directed to express to the house of assembly the readiness of his Majesty's government to co-operate in rendering all public functionaries as independent as possible; but at the same time to mark the necessity for such provisions taking place by enactment, and not by resolution of one branch of the legislature.

"Castle of St. Lewis, Quebec, Jan. 13, 1834."

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"Towards the close of the last session, an address from the house of assembly was presented to the governor in chief, praying that he would be pleased to communicate to the house the circumstances and reasons which had retarded the execution of the warrant for the issuing of a writ for the election of a representative for the county of Montreal, in the place of the honorable Dominique Mondelet, esquire, whose seat was declared vacant by the house, on the 24th of November, one thousand eight hundred and thirty-two.

"In answer to that address, the governor in chief communicated to the house, the fact of his having withheld his signature to the said writ, stating some of the motives which influenced him on that occasion, derived from the proceedings of the house itself, in regard to the vacating of the seats of members who should accept office under government; and the governor in chief informed the house of assembly, that the subject of their address had been referred by him to his Majesty's government, praying for instructions for his

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guidance, which, when received, would be communicated to the house.

"The governor in chief now informs the house of assembly, that in answer to his reference, he has received from the secretary of state a despatch, from which the following extract in relation to the case of Mr. Mondelet, is transcribed for the information of the house:—

"'I am, in the first place, to signify to you my entire approbation of your lordship's conduct in declining to affix your name to the new writ for the election of a Member for the county of Montreal, in the room of Mr. Mondelet, whose seat had been declared vacant by a vote of the house of assembly. Were I disposed to qualify in any measure this approbation, it would be to express my regret that an extreme, though not unnatural degree of caution, should have led you to acquaint the house, that you had referred the matter to the consideration of the secretary of state; and that sanctioned by the opinions and advice of those whom you had very properly consulted, you should not have at once taken upon yourself to announce the decision which your knowledge of the British Constitution had led you so correctly to form. It is unnecessary for me to comment upon the tone and language adopted by the house of assembly, in which they presume to dictate to the king's representative, the occasion and the period at which, in their opinion, he ought to exercise the royal prerogative of dissolution, and hold forth the menace of ceasing to communicate with him, until he shall have made reparation for a breach of their rights and privileges. My present purpose is to express the sentiments of the king's government as to the assumption, by the house of assembly, "of rights and privileges" wholly repugnant to the practice and principles of parliament, and incompatible with the maintenance of the british constitution. Such an assumption I have no hesitation in declaring the claim on the part of the assembly, to vacate the seat of Mr. Mondelet, in pursuance of a forced construction of a resolution of their own house, notwithstanding the surprise which they express, that your excellency should not have known that your signature to a writ of election was simply and purely a ministerial act.

"That your lordship would not, except upon wai

considerations, desire to limit the authority of the house of assembly over its own members, is sufficiently apparent from your not having hesitated to sign the warrant for a new writ upon the expulsion of Mr. Christie, a proceeding, upon the merits of which I am not called upon, and feel no desire to express any opinion. Assuming that the powers of the house of assembly are in all respects not only analogous but equal to those of the british house of commons, I deem it not only difficult but unsafe to attempt to prescribe the bounds within which such a body should exercise the right, of restraining and punishing their own members, and to the discretion of the house of commons it has been well and wisely left by the practice of the constitution to decide upon the degrees of criminality in a member which should call for the highest degree of punishment in their power to inflict, the disgrace of expulsion as unworthy to belong to their body. But as the prudence of the house of commons has rarely, if ever, permitted them to carry to a faulty extreme this power, thus wisely left indefinite; so their knowledge of the british constitution, and of what was due to the privileges of the other branches of the legislature, has preserved them from the fatal error of arrogating to themselves the monstrous right of giving to their resolutions the force of law. The house of commons undoubtedly possesses, and exercises every day the right of interpreting and expounding by resolutions of its own the laws which regulate the rights of candidates and electors in certain cases and according to certain forms which themselves are regulated not by resolution but by act of parliament; but it neither possesses, nor has ever claimed to possess any right, authority or power without the consent of the crown and the house of peers to make laws relating either to the qualification or disqualification of electors or candidates, or rather to effect their object by resolutions only. Examples are numerous and of recent date, in which restrictions analogous to those sought for by the house of assembly have been imposed by the authority of parliament, but they have always been by bill and have never been sought to be obtained by resolutions of the house of commons. That so extravagant an assumption should be made by a body like the house of commons, well acquainted with its rights, and equally acquainted with

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the rights of others, is not to be contemplated; but I believe I am warranted in saying, that if the speaker in the exercise of his ministerial capacity, should be called upon to issue a warrant for a new election, in consequence of a member being unseated, or an illegal resolution, the duty would devolve upon the lord chancellor to take notice of the cause of vacancy, as recited in the warrant, and on the ground of illegality to refuse to affix the great seal to the new writ, as your lordship has in this case very properly declined to give your sanction to the issuing of a warrant. The house of assembly indeed appear, from the course which they have adopted on former occasions, to have considered the right which they claimed to be at least doubtful, and although I have assumed throughout the despatch that the case of Mr. Mondelet fell strictly within the terms of their resolution, I cannot but say that the instance, so far as I collect the case from the documents furnished to me by your lordship, appears to be most unfortunately selected for the first experiment of their right.

"Your lordship will understand me as separating altogether the justice of the general principle that persons accepting office of emoluments under the crown, should be subjected to the judgment of their constituents, from the claim set up by the assembly to effect this object by their own mere resolution; and while I am happy to express my complete approbation of your lordship's refusal to sanction a claim so subversive of the balance of the constitution, and ultimately so dangerous to the liberty of the subject, I shall defer until a future occasion the expression of my opinion as to the propriety of assenting to any act which may be passed by the legislature of Lower Canada, for carrying into effect the object of subjecting members accepting office under the crown to a new election."

"Castle of St. Lewis, Quebec, 13th Jan., 1834."

On the 14th of the same month, he transmitted the following to the assembly*:—

"The governor in chief communicates to the house of

* These were treated with great *hauteur* by the assembly, who afterwards, as will be seen, ordered them to be expunged from the journals.

assembly, for its information, an extract from a despatch addressed to him by the secretary of state for the colonial department, in answer to the petition of the house addressed to the king, which by desire of the house, was transmitted to the secretary of state during the last session, for the purpose of being laid at the foot of the throne:—

"I have also laid before the king, the addresses of the house of assembly. I cannot pass over this document without observation. The object of this address is to pray his Majesty to sanction a national convention of the people of Canada, for the purpose of superseding the legislative authorities, and taking into their consideration in which of two modes the constitution of Lower Canada shall be altogether destroyed.—Whether by the introduction of the elective principle or by the entire abolition of the legislative council. On the mode proposed, his Majesty is willing to put no harsher construction than that of extreme inconsiderateness: to the object sought to be obtained, his Majesty can never be advised to assent, as deeming it inconsistent with the very existence of monarchical institutions. To every measure which may secure the independence and raise the character of the legislative council, his Majesty will be most ready to assent. In 1828, a committee of the house of commons carefully investigated the grievances alleged by the inhabitants of the Canadas, and amongst them the constitution of the legislative council was a matter of serious deliberation. The committee reported that one of the most important subjects to which their enquiries had been directed was the state of the legislative council in both the Canadas, and the manner in which those assemblies had answered the purposes for which they were instituted.—The committee strongly recommended that a more independent character should be given to those bodies, that the majority of their members should not consist of persons holding offices at the pleasure of the crown, and that any other measures that might tend to connect more intimately that branch of the constitution with the interests of the Colonies would be attended with the greatest advantage. With respect to the judges, with the exception only of the chief justice, whose presence on particular occasions, might be necessary, the committee entertained no doubt that they had better not be

involved in the political business of the house. An examination of the constitution of the body at that period and the present, will sufficiently show in what spirit his Majesty's government have laboured to accomplish the wishes of parliament. The house of assembly state correctly that it has often been avowed that the people of Canada should see nothing in the institutions of neighbouring countries to which they should look with envy. I have yet to learn that his Majesty's subjects in Canada entertain such sentiments at present, or that they desire to copy in a monarchical government all the institutions of a republic, or to have the mockery of an executive absolutely dependent for its existence upon a popular body, usurping the whole authority of the State. I am not prepared to advise his Majesty to recommend to parliament so serious a step as the repeal of the act of 1791, whereby the institutions of this country were conferred separately upon the provinces of Upper and Lower Canada.—Serious as are the difficulties by which your lordship's administration is beset, they are yet not such as to induce me to despair of the practical working of the british constitution; but should events unhappily force upon parliament the exercise of its supreme authority to compose the internal dissensions of the colonies, it would be my object, and my duty as a servant of the crown, to submit to parliament such modification of the charter of the Canadas, as should tend, not to the introduction of institutions inconsistent with monarchical government, but to maintaining and strengthening the connection with the mother country, by a close adherence to the spirit of the british constitution, and by preserving in their proper place, and within their due limits, the mutual rights and privileges of all classes of his Majesty's subjects."

"Castle of St. Lewis, 14th Jan., 1834."

He also, at the same time, sent the following message, in reference to the tax on emigrants, which had created a great sensation in Upper Canada, and whence remonstrances against it had gone home:—

"The governor in chief considers it necessary to apprize

the house of assembly with reference to the act 2d, Will. IV., cap. 17, intituled, "An act to create a fund for defraying the expense of providing medical assistance for sick emigrants, and for enabling indigent persons of that description, to proceed to their place of destination," which act will expire on the 1st day of May next, that it will be his duty to reserve for the signification of his Majesty's pleasure, any act continuing the aforesaid act, or imposing any tax on emigrants arriving in this colony.

"The governor in chief therefore recommends to the house of assembly to take into consideration the expediency of making temporary provision from the public funds of the province in aid of sick and indigent emigrants in the cities of Quebec and Montreal, thereby relieving the inhabitants of those places from the appeals on behalf of such persons, which have heretofore been found to be alike burthensome to their means, and distressing to their feelings."

"Castle of St. Lewis, Quebec, 14th Jan., 1834."

The assembly had expended, at the previous session, large sums in contingencies and in paying witnesses who had attended by order of the house to give evidence on the events at Montreal of the 21st of May, 1832. An address was now, early in the session, voted, praying his excellency to issue his warrant in favour of the clerk of the house for £7,000, currency, towards defraying the contingent expenses of the house. It was also resolved that the house would, on the 15th of February, form itself into a committee of the whole "to take into consideration the state of the province," and it was ordered that the governor's message relating to the writ of election for the county of Montreal, (Mr. Mondelet's affair) be referred to that committee;—also "that the message of his excellency in answer to the address of this

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house relating to the constitution of the legislative council, be referred to it"—and finally, a call of the house on that day was ordered—hostile indications. An address was at the same time voted, praying his excellency to lay before the house copies of the opinions and advice given by the persons he had consulted, as alluded to in his message of the 13th instant, relating to the writ of election for the county of Montreal.

To the former of these addresses his excellency sent a long and special answer. He stated "that the supply bill of last year having failed, he necessarily remained accountable for the advances made to the two houses during the session. A circumstance calculated to excite in his mind no inconsiderable degree of anxiety, for should the present session—probably the last of this parliament,—be brought to a close without provision being made for the estimate of last year, (in which are included the estimates of the expenses of the two houses) the same responsibility must continue to attach to him, and it is possible"—he added—"that the next succeeding parliament may not be disposed to make good the engagements of the existing house of assembly in their addresses." He stated the amount so advanced at £7,922, currency, "for which"—he observed—"the governor in chief is now responsible, in consequence of the failure of the supply bill of last year."

"For the informatio of the house of assem-

bly, in the event of their taking up the consideration of the subject of the present communication, a statement has been prepared and is herewith transmitted, showing the amount, year by year, of the fund created by the act 33, Geo. III., cap. 8, from the year 1793 to the year 1832, and of the expenses of the two houses, by which it appears that the expenses of the two houses during that period have amounted to £277,280 15s. 11½d.; and the net amount of revenue to £66,019 4s. 3d., being an excess of expenditure over the revenue of £211,261 11s. 8d., currency.

"After having maturely weighed and considered the circumstances as above stated, the governor in chief now informs the house of assembly, that until he shall have been relieved by an act of the legislature, from the responsibility which still attaches to him, on account the advances made during the last session upon the addresses of the legislative council and house of assembly, he must decline taking into his consideration the expediency of incurring further responsibility on the same account.

"The governor in chief desires the house of assembly to be assured that he will very sensibly regret any inconvenience to the service of the house which may result from the course which he has found it necessary to adopt upon the present occasion.—It is a course which the governor in chief is firmly persuaded will be found in perfect accordance with the spirit of the constitution; and it is, moreover, one from

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which, under existing circumstances, no consideration of expediency can justify him in departing."

This answer produced great excitement in the assembly, which could not carry on the divers inquiries in progress without the command of considerable funds, and of which for this purpose it was disposed to be lavish, although withholding such from the necessary purposes of the government.

In answer to the other address, he desired the messengers to inform the house of assembly that he declined furnishing them with the information prayed for.

An address was then voted, praying his excellency to communicate to the house copy of the despatches from the secretary of state, which conveyed the commands and instructions of his Majesty relative to the supply bill of 1832, and which are referred to in his excellency's message to the house of the 20th November, 1832. In answer to this he transmitted by message, the following extract from the despatch alluded to:—

"With reference to the address of the house of assembly, praying for the communication of a copy of the despatches from his Majesty's secretary of state, which conveyed the commands and instructions of his Majesty, relative to the supply bill of 1832, and which are referred to in the message of the governor in chief to the house of assembly, of the 21st of November, 1832, the governor in chief now transmits to the house of assembly, in relation to that subject, an extract from a despatch addressed to him on the 9th of April, 1832, by viscount Goderich, late secretary of state for the colonial department:—

" In your lordship's despatch of the 20th January, is contained a copy of the message which, on the behalf of his Majesty you transmitted to the house, proposing a civil list of £5,900 per annum; and urging upon that body the motives which so strongly recommend that proposal to their consideration. The house of assembly, however, not only rejected his Majesty's application, and passed a bill founded on principles directly opposed to it, but they did not even judge it right to return any answer to the message, or to explain the grounds of their peremptory refusal of the propositions made to them.

" Every effort which his Majesty has with the most studious anxiety made, to engage the confidence of the house of assembly of Lower Canada, would thus appear to be unhappily fruitless; and every demand, however cautious and moderate, has been repelled, without even the observance of those forms of courtesy which are invariably maintained by the british parliament, and by the general assemblies of all his Majesty's colonies. Yet, it remains to his Majesty a source of permanent satisfaction, that the concessions which have been met by so unexpected a reception, were not withholden. To have rendered justice to his canadian subjects, with the most scrupulous respect for their rights, and with the most liberal regard for their interests, can never be to his Majesty a subject of regret, however much that proceeding may have failed to fulfil the hopes, which his Majesty, upon the best apparent grounds, had permitted himself to indulge.

" His Majesty, however, having now been compelled to admit the conviction that any application to the house of assembly to concur in the grant of a civil list, will be met with an unqualified denial, will not be advised to provoke the repetition of proceedings which his Majesty cannot believe to be in harmony with the deliberate purposes and habitual feelings of any class of his Majesty's canadian subjects.—Your lordship will, therefore, in your future communication to the house of assembly, make no further reference to the question of the civil list. The salaries of the governor, of the provincial secretary, of the governor's secretary, and of the law officers of the crown must henceforth be excluded from the annual estimates. His Majesty will

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provide for those charges from the funds which the law has placed at his own disposal.

"The course which has been taken has reduced his Majesty to a dilemma from which it does not seem possible to escape. On the one hand the rejection of the bill would inflict great distress on a large body of persons, impede for nearly twelve months various public services of the highest importance, and probably excite very general discontent.—By accepting it his Majesty would on the other hand appear to acquiesce in the exercise of a principle subversive of the independence of the crown, and in a proceeding marked by a studied departure from those decorous observances which it is of such vital importance to maintain. In the choice between these difficulties, his Majesty deems it better to incur the risk of a misconstruction of his motives, than to expose to so formidable an inconvenience, a large body of his people, whose welfare it is his most anxious desire to promote. I am therefore commanded by the king to signify to your lordship his Majesty's assent to the bill which you have transmitted."

"Castle of St. Lewis, Quebec, 21st Jan., 1834."

With this he also transmitted an answer to an address they had sent up praying for communication of any despatch he may have received since the last session, relative to the petition of the house against Mr. justice Kerr. He informed the assembly that on the 18th March, 1833, their petition was transmitted to the secretary of state, but that the documents connected with it not being prepared were not forwarded until 2d April, and that duplicates of all had been moreover despatched on the 21st May. That he had since received a despatch of 2d June, 1833, from the secretary of state, at which period it would appear the documents in question had not been received by him.

His excellency transmitted an extract from this despatch for the information of the house :

" It is only necessary, therefore, that I should convey to you his Majesty's commands that you acquaint the assembly that their address has been laid before the king, but that being unaccompanied by any explanation of the nature of the charges against Mr. Kerr, or of the evidence in support of them, his Majesty is unable to form any judgment on the merits of the case, but should the house of assembly see fit to forward the necessary documents, his Majesty is prepared to afford due attention to their address, and to call upon Mr. Kerr for such explanation as may appear to be required."

" From the foregoing extract it may be inferred that upon receipt of the documents which have been transmitted to the secretary of state, some further communication may be expected in regard to the petition of the house of assembly, more especially as Judge Kerr has proceeded to England on leave of absence, for the avowed purpose of defending his character against the charges of the house of assembly."

" Castle of St. Lewis, Quebec, 21st Jan., 1834."

During this session the ancient castle of St. Lewis, in Quebec, the residence of the governors accidentally took fire and was entirely destroyed, to the general regret of the citizens. This circumstance occurred on the 23d January, and on the day following the governor sent down to the assembly a message on the subject :—

" The governor in chief regrets to have to inform the house of assembly, that the ancient castle of St. Lewis, occupied by him as an official residence, caught fire yesterday, soon after noon, and that notwithstanding the efforts of his Majesty's troops, the Worshipful the Mayor of Quebec, the gentlemen of the seminary, the fire companies, and a large concourse of citizens of every class, who repaired with alacrity to the spot, and were unceasing in their exertions

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to save that public building from destruction, it was entirely consumed."*

"Castle of St. Lewis, Quebec, 24th Jan., 1834."

* The fire at the castle of St. Lewis which was raging when our paper was put to press, on Thursday last, defied the utmost attempts at extinguishing it made by the whole of the troops in garrison, assisted by the zealous co-operation of all classes of citizens, who evinced on the occasion, as we learn, an alacrity and good feeling highly creditable to them. Not having been present we gladly avail ourselves of the very well written account of the progress of this awful conflagration, in the Old Quebec Gazette of yesterday. Much as that disaster is to be regretted, it is nevertheless consolatory to reflect that the season of the year, and the protection that the snow afforded to the roofs of the closely built houses in the Lower Town immediately below it, averted the incalculable mischief which might otherwise have been occasioned in that quarter.

"The whole of his excellency's papers, with his plate and furniture, a great part of which was new, together with the valuable paintings, prints, and articles of value were saved, and generally in a much better state than might have been expected, under all circumstances, from the burning of so large a pile of building, so peculiarly situated as the castle of St. Lewis."—*Quebec Mercury.*

"DESTRUCTION OF THE CASTLE OF ST. LEWIS BY FIRE.—This building, the residence of the governors general of B. N. America for the last 150 years, and so prominent an object in the view of the city of Quebec from the harbour, as it surmounts the brink of the precipice between the Lower Town and the Citadel, has fallen an entire prey to the flames. The fire broke out yesterday about noon, in a room at the south end of the building, in the third story, occupied by capt. McKinnon, A. D. C., and though early discovered, and every means taken to arrest its progress, it flew with astonishing rapidity through the upper story, and continued to burn downwards, in spite of all the exertions of the troops and about a dozen fire engines, until this moment. It now presents its hundred openings, tall bare chimneys and, its sooty and ruined walls—a couple of engines still struggling to subdue the flames in the south wing.

"It was originally built by the french at a time not exactly ascertained; and though somewhat altered in form and improvement—particularly in Sir J. Craig's administration, at an expense of about £10,000 to the Province—the original walls, we believe, all remain, having successively escaped with trifling damage, the sieges of 1759 by Wolfe, of 1775 by the Americans, and the bombardment of Sir William Phillips in 1690. Its site, since the earliest discovery of the country, had been successively the head quarters of the whole french possessions, at one time extending over the present british North American possessions, including Louisiana and the territories on the Mississippi; and between 1759 and the American independence in 1776, was the seat of the principal in command of the whole continent of North America.

"It was tenanted when the fire broke out by lieut. gen. lord Ayl-

His excellency at the same time transmitted to the assembly an estimate of the expenses of

mer, governor in chief, and lady Aylmer, capt. McKinnon, grenadier guards, and capt. Doyle, 24th regt., aides-de-camp, and lieut. Paynter, extra aide-de-camp; with the different domestics of the establishment. The military secretary (capt. Airey) occupied apartments in what is called the Old Chateau, a building erected by the english after the conquest, and chiefly used as dancing and dining halls. The public documents belonging to the administration were early removed, as was the plate, and by much the greater part of the furniture, but the latter was damaged. His excellency had £3000 insured on the furniture, (which is purchased from the preceding governor on every change,) at the Quebec office.

"The Thermometer on the morning of the fire had marked 22° below zero, and, during the whole time it lasted, continued from 2° to 8° below zero, with a strong piercing wind from west to south-west. Many of the engines were soon frozen up, and the hose, and every thing connected with them, could only be kept in any thing like order by the use of warm water, which was generously furnished from the breweries of Messrs. Racey, McCallum and Quirouet, and by the religious communities. The citizens and troops distinguished themselves by their services; but from the impossibility of reaching the part of the building overlooking the precipice, it soon became apparent that any successful attempt to arrest the progress of the flames, was hopeless.

"It will probably cost £25,000 to £30,000 to erect a new building, but the beauty of the situation, and the extent of the grounds will afford an opportunity of erecting one of the most ornamental and prominent public buildings in the city, of which Quebec is really lamentably deficient. The site belongs to the Military Government. —*Mr. Neilson's Quebec Gazette.*

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DESCRIPTION OF THE CASTLE IN 1723, FROM LA POTHERIE.

(Furnished by a Correspondent.)

"The Chateau is on the top of a hill rising steeply to the height of 180 feet. The fortifications are irregular; there are two bastions looking to the town, without a ditch. The governor general's house is 120 feet long, and in front of it is a terrace overlooking the Lower Town and the river. The building looks very well, both inside and outside, owing to the wings (*pavillons*), which outshoot the main building, both in the rear and in the front. It is two stories high; and a wing of 33 feet long remains to be built. There is a battery of 22 guns alongside of the house, partly within the chateau and partly out of it, which commands the Lower Town and the river.

["In La Hontan, who visited Canada from 1633 to 1693, there is an engraved view of the Castle, which had then but *one* story. The view of it in La Potherie gives it *two* stories; and it was in 1809 that it was raised to *three*, and since then had retained the appearance it had a few days ago."]—*N. Q. G.*

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the current year, made up on the same principle as that of last year, and he relied, he said, on the liberality of the house of assembly for granting the necessary supplies required for the public service of the year. The amount of supply required was £59,395 sterling. The public accounts shewed the net income of Lower Canada, for the year ending 10th October, 1833, to have been £164,124, currency, after paying Upper Canada £60,879, its proportion of the gross amount of the year's revenue, which was stated at £236,635.

The want of funds to defray contingencies, and in particular to indemnify those who were in attendance upon the standing committee of grievances inquiring into the events of the 21st May, was severely felt. The house consequently gave an order that the standing and special committees should report to it whether they had met with any obstacle to their proceedings arising from a want of funds to indemnify witnesses, or with regard to the summoning of the witnesses whom they may require in the course of the investigations they are enjoined to make, or in procuring papers, or in any other way. The clerk was also ordered to report to the house the demands upon him up to that day, (5th February) for salaries, wages, or indemnifications to be paid, or contingent expenses of the house, and which he had found himself unable to meet, and of the means he had of satisfying the same. He reported the claims upon him at £7,416, ex-

clusive of those for " firewood, water, tallow candles and various other petty expenses, besides several sums to witnesses examined before different committees, the amount of which could not then be ascertained," and which, as he stated, he had no means of satisfying. Several committees reported also their embarrassments for want of funds.



A bill was passed and sent to the legislative council, " for securing the dignity and independence of the legislative council and executive council of this province, and of the judicial body thereof," where it was passed, but being reserved for the royal pleasure was no more heard of. The nature of the bill may be understood by the resolutions upon which it was framed, moved by A. Stuart, esqr., and adopted by the house.* On the same day that

" Resolved, That for the peace, welfare and good government of this province, it is essential that the legislative and administrative powers thereof should be separated that neither might interfere with the due exercise of the other.

" That the independence of the judges and the confidence of the people at large in the proper administration of justice, wherein consists the true stability of government, can alone be secured by exempting the high judicial officers of the colony from the exercise of legislative functions, and also from those purely executive.

" That it is essential for the good government of this province, that the members of his Majesty's executive council for the same, whose duty it may be to advise the governor, lieut.-governor, or person administering the government for the time being, for the affairs of the said province, should be free from the controul of the legislative council or assembly of this province, as ministerial officers of either of those bodies.

" That the due and proper administration of justice, and the confidence of his Majesty's faithful subjects of this province therein, require that the chief justice of the province, the chief justice of Montreal, and the justices of his Majesty's Courts of king's bench for the several districts of this province, should not sit or vote in the legislative council of this province, so long as they shall continue to hold, exercise or enjoy their aforesaid offices.

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this bill was sent up to the legislative council, another was received from it "to establish a court for the trial of impeachments, which, although formerly a popular measure, was now rejected in the lower house.†

"That the due and proper administration of justice, and the confidence of his Majesty's faithful subjects in this province therein, require that the chief justice of the province, the chief justice of the district of Montreal, and the justices of his Majesty's court of king's bench for the several districts of this province, should not sit or vote in his Majesty's executive council of this province, save and except when they, or any, or either of them may be legally bound to do so in the said council sitting as the provincial court of appeals.

"That it is expedient that the ministerial officers of his Majesty's executive council for this province, should not sit or vote as members of the legislative council for the same.

"That it is expedient that the ministerial officers of the legislative council and of the assembly of the province, should not sit or vote as members of his Majesty's executive council of this province.

"That it is expedient to provide by legislative enactment for giving effect to the foregoing resolutions."

† The despatch from lord Bathurst, colonial minister, to Sir John C. Sherbrooke, relating to the accusations of the assembly against Mr. justice Foucher, and pursuant to which, according to his message in 1818, to the assembly, (see vol. II., page 208,) his excellency stated that "he had it in command from his royal highness the prince regent, to signify his decision that in this and all similar cases of impeachment by the assembly, the adjudication of the charges preferred against the party accused should be left to the legislative council," was not then communicated to either of the two houses of the provincial parliament. It has, however, since appeared, and is as follows, dated

"Downing Street, 7th July, 1817.

"I have not failed to bring under the consideration of the prince regent, your despatches of the dates and number specified in the margin, in which you communicate the proceedings of the house of assembly against L. C. Foucher, esq., one of the justices of the court of king's bench, the addresses which the legislative council had, in consequence of his impeachment, thought it necessary to submit to his royal highness, and the anxiety of Mr. Foucher that the charges against him should be brought to an early decision.

"In considering these communications, his royal highness has been most anxious to devise some mode of investigating the conduct of Mr. Foucher, which, while it shall ensure a correct adjudication of the charges brought against him, shall be as little burthensome as possible either to the party accused, or to those by whom the accusation is preferred. His royal highness acquiesces entirely in the sen-

It was evident, from the commencement of the session, by the various addresses to the governor calling for information, by the references of his answers and messages to committees, and above all by the constant sitting of the house, day after day, in committee on the events at Montreal, of the 21st of May, 1832, and particularly by the resolution adopted of taking, on the 15th February, the state of the province into consideration, that some great result was in contemplation. Before going into committee on this subject, it was resolved—

"That in the event of the bill sent up by this house to the legislative council, on the 3d of Feby., inst., appointing the hon. D. B. Viger, agent for the province, not becoming a law, it is expedient that the said D. B. Viger now in Eng-

timents expressed by the legislative council, as to the inconvenience of conducting such an investigation in this country, since such a measure would, in any case, entail a heavy expense most unjust to the parties, if it be to be defrayed by them, and most burthensome to the public, if ultimately charged to the colony. I am therefore to signify to you the pleasure of his royal highness that in this, and all similar cases of impeachment by the legislative assembly, the adjudication of the charges preferred against the party accused shall be left to the legislative council. Under such an arrangement his royal highness feels no disposition to question the right of the assembly to submit articles of impeachment against any individual whose public conduct may appear to them deserving of animadversion; nor does his royal highness see any objection in such case to a compliance with the address of the assembly for the suspension of the obnoxious individual, since the means of ascertaining the validity of the charges being at hand, the party accused sustains but little injury from a temporary suspension if innocent, and if ultimately pronounced to be guilty, the advantage of an immediate suspension is unquestionable. You will therefore communicate to the house of assembly and to the legislative council the decision of his royal highness, and his confident expectation that they will each so discharge the important duties, which will, under this arrangement respectively devolve upon them as to give complete satisfaction to all classes of his Majesty's subjects in this province.

(Signed) "BATHURST."

"To lieut. gen. Sir J. C. Sherbrooke."

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land, continue therein for the present year, to represent to his Majesty's government the interests and sentiments of the inhabitants of this province, and support the petitions of this house to his Majesty and both houses of parliament.

"That it is expedient that the necessary and unavoidable disbursements of the said D. B. Viger, for the purposes aforesaid, not exceeding £1,700, sterling, be advanced and paid to him, or his order, by the clerk of this house, out of the contingent fund thereof, till such time as the said disbursements can otherwise be provided for."

The names of the members being called over, the house, according to order, went into committee of the whole which it continued for several successive days, finally reporting on the 21st, the result of their deliberations, in the shape of the famous ninety-two resolutions,*

* These resolutions being reported, Mr. Bedard moved "that the question of concurrence be now separately put on each,"

Mr. Neilson moved in amendment "that all the words in the motion after "that" be struck out, and the following substituted:—the said report be recommitted, with an instruction to consider the following propositions:—

1. "That the state of the province was fully considered by this house, and represented to his Majesty and both houses of parliament, in its humble addresses of the 16th March, 1831, and that the answer thereto of his Majesty's then principal secretary of state for the colonial department, dated the 9th of July following, laid before this house on the 18th Novr,. of the same year, contains a solemn pledge on the part of his Majesty's government, of its ready assent and co-operation in removing and remedying the principal grievances and abuses complained of in the said addresses; and that it is the bounden duty of this house to proceed, in the spirit of the said despatch, to co-operate in promoting the peace, welfare and good government of the province, conformably to the act of the british parliament under which it is constituted.

2. "That the extract of the despatch of his Majesty's principal secretary of state for the colonial department, communicated to this house in the message of his excellency the governor-in-chief, of the 14th January last, contains an acknowledgment of the continued disposition of his Majesty's government to give effect to the recommendations of the report of the committee of the house of commons of the 22d of July, 1828, made after a full investigation of the petitions of all classes of his Majesty's subjects in this province, and thereby furnishes an additional inducement to this house to proceed earnestly,

(moved by Mr. Elzear Bedard, but for the most part, if not entirely, drawn up by Mr.

diligently, and perseveringly, in so far as depends upon it, to secure for its constituents the advantages afforded by the said recommendations, cultivating harmony and good will throughout the province, and promoting the general welfare.

3. " That it is urgent at the present time, to make legislative provision for the advancement of the improvement of the province and the amelioration of the condition of its inhabitants.

" More particularly.

1. " For facilitating the occupation, under secure tenures, of all lands, in the vicinity of settlements, remaining in a state of wilderness, without the actual settler being burthened with any arbitrary or unnecessary dues and conditions, and either upon the ancient tenures of the country, or in free and common soccage, as may be the most agreeable to the occupant.

2. " For the greater certainty of the laws affecting real property throughout the province; for the independence of judges, and for facilitating the administration of justice, and recourse against the provincial government in the courts of law.

3. " For the greater responsibility of high public officers, and the trial, within the province, of impeachments by the assembly.

4. " For the settlement of all public accounts, and for a full and fair investigation into all salaries, emoluments of office, fees and expenses exacted under the public authority, and a reduction of all unnecessary charges and burthens on the subject."

" The house divided on the motion of amendment.

" Yeas—Messrs. Anderson, Baker, Berthelet, Caldwell, Casgrain, Cuvillier, Davis, Duval, Goodhue, Gugy, Hoyle, Knowlton, Languedoc, Le Boutillier, Lemay, Neilson, Power, Quesnel, Stuart, Taylor, Wood, Wright, Wurtele, Young—24.

" Nays—Messrs. Amiot, Archambault, Bedard, Bertrand, Besserer, Blanchard, Boissonnault, Bouffard, Bourdages, Bureau, Caron, Cazeau, Courteau, Child, De Bleury, Déligny, Deschamps, De Tonnancour, De Witt, Dionne, J. Fortin, P. A. Dorion, Drolet, Fortin, Girouard, Guillet, Godbout, Huot, Kimber, Lafontaine, Larue, Leslie, Letourneau, Masson, Morrin, Méthot, Mousseau, Noel, Poulin, Proulx, Raymond, Rivard, Rocbrune, Rodier, Rochon, Scott, Simon, A. C. Taschereau, Tessier, Toomy, Trudel, Turgeon, Valois, Vanfelson, Viger—56.

" So it passed in the negative.

" The main motion was then agreed to, yeas 56, nays 23. Mr. Gugy having retired.

" The resolutions were then agreed to; and on motion of Mr. Bedard, a special committee composed of Messrs. Bedard, Lafontaine, Leslie, Morin, Girouard, Bourdages and De Witt, were appointed to prepare petitions to his Majesty, and to both houses of the imperial parliament, founded thereon. Yeas 56, nays 24, Mr. Gugy having returned."

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Papineau, the speaker of the assembly,) as inserted in the Appendix.* Upon these resolutions, addresses to the king, lords, and commons of the United Kingdom were drawn up.

The addresses being carried by a large majority—(yeas 53, nays 20.) An humble address to the governor in chief was voted, informing his excellency that the house had voted an humble address to his Majesty on the state of the province, and respectfully praying his excellency would be pleased to transmit the same to his Majesty's ministers for the purpose of being laid at the foot of the throne. His excellency graciously received the house with the address, and assured them that he would transmit it. The assembly appointed one of their own body (Mr. Morin) to convey to England and deliver to Mr. Viger, as agent for the province, the two other addresses, (to the lords and commons) and whither that gentleman, soon after the session, accordingly departed, bearing with him those important documents expressive of the grievances of the province, as digested by its representatives in parliament.

These being expedited there were no longer members in town sufficient to form a quorum, and the house accordingly, day after day, from the 8th to the 18th March, having adjourned for want of it, the governor came down on

* See letter E, in the Appendix, 4th volume.

this latter day and prorogued the session. Chap. XXXIV. 1834.

The assembly made the usual provision for education and charitable institutions, as well as for roads and other internal improvements, but no supply, pursuant to the estimate, in aid of the funds towards the support of the civil government was voted. The distress that followed was consequently great. His excelleney dismissed the two houses with the speech following:—

"Gentlemen of the legislative council, gentlemen of the house of assembly,—The state of the public business in your two houses no longer makes it necessary to detain you from your homes and usual avocations.

"Gentlemen of the house of assembly,—Your late proceedings have relieved me from the necessity of addressing you upon the present occasion on the subject of the communication, which, in obedience to his Majesty's commands it was my duty to make to you at the opening of the session, regarding the financial difficulties of the local government, caused by the failure of the supply bill of last year.

"That subject, as well as others relating to the affairs of the province, has been taken out of the hands of his Majesty's government by your appeal to the imperial parliament.

"To the decision of that supreme authority all parties concerned must yield implicit obedience: in the mean time, however, I cannot suffer to pass unobserved, the language of the ninety-two resolutions, under which your appeal to the imperial parliament is founded, for it is so greatly at variance with the well known urbanity and moderation of the canadian character, that those who may be unacquainted with the real state of the province will find it difficult to persuade themselves that that language has not originated in some extraordinary and general excitement in the minds of the people.

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"I avail myself of this opportunity, therefore, to state distinctly, and I must desire to call your particular attention to the fact, that whatever feeling may have had the ascendency within the walls of the house of assembly, when your ninety-two resolutions were adopted, the whole of the province beyond those walls were at that moment in the enjoyment of the most profound tranquillity, and I have too firm a reliance in their good sense to believe that they will suffer that tranquillity to be disturbed by the manœuvres which are evidently about to be put in practice for that purpose.

"It will, I think, be found a difficult task, to make a whole people believe in the existence of evils which no individual member of the community is sensible of as regards himself personally.

"You would render a very useful service to your constituents on returning amongst them, in communicating to them the words which I have just addressed to you.

"Gentlemen of the legislative council, gentlemen of the house of assembly,—When I met you not long since in this place for the purpose of opening the session of the provincial parliament, it certainly did not enter my contemplation that circumstances would have rendered it necessary to bring the session to a close at a period so early as the present.—I looked forward with satisfaction to the prospect of a long and useful session, which should compensate for the deficiencies of the last.

"But although disappointed in a great measure in that expectation, it must be confessed that the present session has not been unproductive of advantage to the province, since it has effected the continuance of some useful laws. Amongst these may be distinguished the militia act, and the act for promoting elementary education. The latter of these acts is particularly deserving of notice, from the general interest it excites in the province.

"I very sincerely wish that the general diffusion of education may have the effect of promoting the happiness of the people, the ultimate aim of all public institutions. It will at all events, be productive of this great benefit, that it will make the people better acquainted than they now are, with

the political advantages they enjoy in comparison of other communities in various parts of the world, and will enable them to estimate at their true value the arguments of those who endeavour to make them dissatisfied with their condition, and whose education gives them the facility of clothing in specious language, the inspirations of a weak and disordered intellect.

"I now relieve you from further attendance, in the hope that the next session of the provincial parliament will be attended with more solid, and extensive benefits to the province, than either of the two sessions which will have preceded it."

"Castle of St. Lewis, Quebec, 18th March, 1834."

Forty-two bills passed both houses during the session, eleven of which were reserved for the signification of the king's pleasure, and one was rejected.

Seventy-five bills in all were sent up by the assembly to the council, and four came down from the council to the assembly, *none* of which passed the assembly. Of the bills sent up by the assembly, seventeen were returned amended, and the amendments concurred in, or new bills adopting the amendments of the council were introduced, and assented to by the council. Twenty-five were agreed to by the council without amendment, and the remainder were lost in the council, or not determined upon, having been sent up at a late period.

The principal business of the session in the assembly, was the ninety-two resolutions, and every other forenoon, the 21st of May affair, the enquiry into which was resumed on the part of the petitioners, although it had been stated last session to be closed. No witnesses were

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at any time called excepting in support of the petitions. These morning sittings unavoidably prevented the committees from attending to the matters referred to them.

An address to the king on the state of the province was also voted by the legislative council, and forwarded by the governor in chief.*

* "*To the King's Most Excellent Majesty.*

"Most gracious sovereign.—We, your Majesty's most dutiful and loyal subjects, the legislative council of the province of Lower Canada, in provincial parliament assembled, humbly approach your Majesty to revive the expressions of our affectionate devotion to your Majesty's person and government.

"When the house of assembly in the session of the provincial legislature of the years 1832-3, addressed your Majesty to recommend to the imperial parliament, to call a convention of the people to effect a change in the form of government established in this province, the legislative council felt it to be their duty to resist the attempt of the assembly; and it was with feelings of great satisfaction that we received the assurance conveyed in a despatch from your Majesty's principal secretary of state for the colonies, communicated to the legislative council by message from his excellency the governor in chief, on the 14th of January last, that your Majesty will not fail to secure all classes of your subjects in this province, the constitutional rights and liberties which they enjoy by their participation in british institutions.

"After this formal communication of your Majesty's gracious intentions to preserve the constitution as by law established, we are compelled to view the address of the assembly of this province to the two houses of the imperial parliament, praying for a change in the fundamental institutions of the country, as an impeachment of your Majesty's justice and impartiality, and as this appeal from the decision of your Majesty must be considered as a renewal on the part of the assembly, of the attacks on the government and iustitutions of the country, we feel ourselves bound in duty and by inclination, to oppose pretensions which, as exhibited in the resolutions of the assembly, are alike dangerous to the stability of your Majesty's government, and destructive of the peace and happiness of the loyal inhabitants of this province.

"We therefore most earnestly renew the assurance of our unvaried attachment to the present constitution and form of government; and reposing unbounded confidence in your Majesty's most gracious word and paternal protection, and in full reliance on the wisdom and firmness of your Majesty's government, we pray that your Majesty will not be advised to sanction the change demanded by the assem-

On the 29th of March, a number of the most respectable merchants and other inhabitants of Quebec, friendly to the existing constitution, also waited on the governor in chief with the following address :—

" We have the honor of waiting on your lordship as a deputation with a memorial to his Majesty from a number of inhabitants residing in and near Quebec, who highly prize the blessings of the political constitution they enjoy, and the mild and paternal government under which they live.—Deeply sensible of these advantages, they are naturally rendered anxious, by the wild pretensions of the majority of the house of assembly, in seeking changes which would inevitably result in establishing the most dangerous of all tyrannies, that of political agitators, who irresponsible, have but their own ambitious ends in view. In the confident hope, my lord, that we, and those who follow us may never witness these changes, we beg leave to entreat your lordship to lay this our humble and loyal address at the foot of the throne.

" Your lordship will observe that this memorial is dated as far back as the month of May last, it is therefore proper we should explain that the delay in calling on your lordship to forward it arose from a hope, indulged by many, that the proceedings of the house of assembly during the late session, would have rendered it unnecessary ; it was, however, with disappointment and regret they observed, that the increased

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bly destructive of a constitution affectionately cherished by your faithful canadian subjects; and we most respectfully assure your Majesty of our perfect conviction that the resolutions, and address supporting the demands of the assembly, by threats of no doubtful import, present an unfaithful exposition of the opinions, and are not in unison with the feelings of loyalty and attachment to your Majesty's government, entertained by the great body of your Majesty's faithful subjects in this province.

" To which his excellency returned the following answer :—

" Mr. Speaker and gentlemen of the legislative council,—In compliance with your desire, I will transmit your address to his Majesty to the secretary of state for the colonial department, for the purpose of being laid at the foot of the throne."

" Castle of St. Lewis, Quebec, 12th March, 1834."

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violence of that body and the revolutionary tendency of the 92 resolutions, have only since made it more applicable and more called for."

To this his excellency was pleased to make the following reply :—

"Gentlemen,—I will not fail to transmit your memorial, addressed to his Majesty, to the secretary of state for the colonial department, for the purpose of being laid at the foot of the throne.

"It must be confessed that recent events, to which I refrain from alluding more particularly, are calculated at first sight to excite apprehensions for the safety of the political constitution of the province—fortunately, however, as the wild schemes of those who would effect a change in the constitution develope themselves, the utter incapacity of the innovators to exercise the power to which they aspire, becomes in the same degree more manifest: so that the evil brings its own remedy along with it."

"Castle of St. Lewis, Quebec, 29th March, 1834."

PETITION.

"*To the King's Most Excellent Majesty.*

"The Petition of the undersigned inhabitants of the city of Quebec and its vicinity,

"Humbly sheweth,—That your Majesty's petitioners impressed with the highest sentiments of duty and of affection to your Majesty's person and government—inviolably attached to the constitution which your illustrious father and the parliament of the United Kingdom conferred upon this province, and deeply sensible of the paternal care and watchfulness of your Majesty over the interests of this colony, humbly beg to approach your Majesty, and in full reliance upon the wisdom and justice of your Majesty, to lay this, their petition, at the foot of the throne.

"It is not unknown to your Majesty that your Majesty's subjects in this province are composed of two classes—the one descendants of the french inhabitants of the province at the time of its cession to your Majesty's father, of blessed memory, and the other of persons and the descendants of persons who have emigrated hither from the United Kingdom of Great Britain and Ireland, and elsewhere.

"That evil disposed persons, actuated by motives of personal aggrandisement, and of disaffection to your Majesty's government, have availed themselves of this hereditary difference of origin and language, to foment dissensions between these two classes of your Majesty's subjects, to excite distrust of your Majesty's government, and to impede the advancement of the colony in prosperity, to the prejudice of its inhabitants. These persons having acquired an ascendency in the house of assembly of this province, have systematically used the same for the purpose of giving an undue superiority to one class of your Majesty's subjects over the other, and measures have been, by their influence, introduced and carried in the house of assembly, altogether subversive of the rights of your petitioners, and of the class of your Majesty's subjects in this province to which they belong. Your Majesty's petitioners claiming no more than an equal enjoyment of rights with their fellow subjects, feel deeply sensible of the injustice of these measures, which it is their duty and determination by all lawful means to counteract and resist.

"That the proceedings advised and carried in relation to the ungranted lands of the crown and the settlement of emigrants thereon,—the obstacles thrown in the way of, and the resistance made to every plan having a tendency to introduce capital or population from the british islands,—are parts of the same series of measures, which, if successful, would be most seriously injurious, not only to the interests of this colony, but also to those of the empire in general.

"These colonies having been acquired, maintained, and protected by the blood and treasure of the empire, your Majesty's petitioners humbly conceive that every british subject inherits a title to a share of the lands therein, and that should the claim set up by the house of assembly, to the exclusive control of the ungranted lands within this colony —unprecedented as such a claim is in the other colonies— be acceded to, it would have the effect of drying up that fountain of bounty from which your Majesty is now able to afford an asylum to the redundant and industrious population of the empire, and of leaving this fertile country in nearly its original state of extensive and unproductive forests. Your petitioners humbly conceive that these lands cannot with

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safety, be placed in other hands than those of your Majesty; upon whose wisdom and paternal care they rely for such regulations in the distribution of them, as will secure the rights and be conducive to the happiness and prosperity of your Majesty's loyal subjects of all classes.

"That your Majesty's petitioners, with feelings of deep regret and alarm, have observed that systematic efforts have for a long time been making in the house of assembly, to bring the officers of your Majesty's government, and particularly those entrusted with the administration of justice within this province, into contempt, and to expose them to public hatred; and whilst your Majesty's petitioners are impressed with a sense of the propriety and necessity that all your Majesty's servants should be subjected to a strict constitutional control in the discharge of their official duties, they at the same time beg leave, with every sentiment of profound respect—to state their deep conviction that it will be most conducive to the public welfare, that your officers, who honestly and fearlessly discharge their public duties, should be efficiently protected, and should in no way be made dependent on the arbitrary will and caprice of any body of men within the colony.

"That your Majesty's petitioners beg leave humbly to represent that the legislature of this province has passed various acts, whereby a landed qualification is established, for justices of the peace and militia officers, ill adapted to the condition of the country and more particularly to the state of education therein, designed to produce and actually producing the effect of excluding from these offices men of british birth and descent, and others the faithful subjects of your Majesty.

"That in further prosecution of the same system, a bill for the regulation of juries was passed into a law during the session of 1831, whereby the powers exercised by jurors in civil as well as criminal matters, were transferred to one class of your Majesty's subjects, to the almost total exclusion of that class to which your petitioners belong; establishing a novel and unprecedented mode of settling the grand inquest of the country, depriving the community of the advantages which it has hitherto possessed in the superior education and intelligence of the inhabitants of the cities of

every origin, and thus endangering the lives and liberties of your Majesty's faithful subjects within the province, and leaving (as has often been the case) the most important and complicated commercial questions to the decision of juries composed entirely of ignorant and illiterate men.

"Deploring, as your Majesty's petitioners do, the effect of these measures upon the general well-being of the province, it is with increased pain that they survey them, connected with others of the same general character, which tend and are designed to alienate the affections of the parent state from this colony, and to produce an erroneous belief that the inhabitants of this province are insensible to the multitude of favours conferred upon them by your Majesty's government, and have ceased to cherish that connexion with the parent state, which it is the most anxious wish of your petitioners to see perpetuated. Your petitioners beg to call your Majesty's attention to the temper in which all communications from your Majesty to the house of assembly, relative to the affairs of the colony have been received, and to the manner in which all overtures made by your Majesty's government for the settlement, upon a secure footing, of all the matters in controversy between the parent state and the colony have been rejected. Your petitioners feel that in the absence of a public expression of their own sentiments upon these matters, it might seem that they participated in such a line of conduct.

"Whilst your Majesty's petitioners most deeply deplore the loss of life occasioned in subduing a riot, which took place in Montreal on the 21st May last, they can little sympathise with the proceedings to which it has given rise; for although your Majesty's troops, called out to assist the civil power in suppressing the riot, conducted themselves with a forbearance and humanity, equally honorable to themselves and the nation; yet the occurrences of that day have been made use of by individuals in the assembly for the purpose of exciting jealousies and animosities against your Majesty's troops, of fomenting ill will and hostility to the government, and of bringing into hatred and contempt the courts of justice, and all the constituted authorities of the country.

"Your Majesty's petitioners feel the more imperiously called upon to render justice to the officers and men of your

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Majesty's army, employed upon that occasion, as misrepresentations upon that subject have been made by Denis Benjamin Viger, Esq., acting as the agent of the assembly, and in that capacity conveying to your Majesty's government, as the real sentiments of your Majesty's subjects, calumnious imputations upon public officers, both civil and military, originating only with himself, and those individuals in the house of assembly, by whose unauthorized instructions, it is matter of notoriety, within the province, he is guided.

"That the house of assembly of the province has, on many occasions, displayed a decided spirit of hostility to measures for the improvement of the commercial relations and interests of the colony, and that the said Denis Benjamin Viger, Esq., was himself for many years a member of the assembly, acting uniformly with the majority of that body, and that his services as their agent have been rewarded by a large and annually increasing salary, paid him upon an illegal vote of the majority of that house out of the revenues of the province, under the head of "Contingencies of the house of assembly." Your Majesty's petitioners are in consequence exceedingly alarmed lest the said Denis Benjamin Viger, Esq., should misrepresent the actual state of the great commercial and general interests of the colony, and by inviting your Majesty's ministers to adopt a line of policy suited to his own views and those of his employers, lead to consequences subversive of the established relations between the parent state and the colony. To the communications of an envoy so prejudiced from habit and situation, your petitioners most earnestly and humbly pray that your Majesty may instruct your ministers to listen with suspicion and distrust.

"That your Majesty's petitioners beg further humbly to represent, as a part of the same series of acts, the disfranchisement of a large portion of your Majesty's subjects, resident in the district of Gaspé, and the establishment of an arbitrary disqualification of members of the assembly, founded upon a mere vote of a majority of their body, without any law to warrant the same.

"That your Majesty's petitioners regard the legislative council of the province, improved as its composition has been, and will no doubt further be, by your Majesty, as, in

the present condition of the colony, the only safeguard which they possess against the arbitrary, unconstitutional, and unjust measures complained of, and accordingly a majority of the house of assembly, in order to remove this check upon the exorbitance of the powers which they usurp and those to which they aspire, have long and systematically laboured to bring into contempt this co-ordinate branch of the legislature, and lately have openly solicited its subversion, and consequently that of the constitution as fixed by law; seeking the establishment of a new form of government, not adapted to the wants and condition of the country, inconsistent with the relations which your Majesty's petitioners trust will long subsist between the parent state and the colony, and calculated to increase that power, from the abuse of which your petitioners, have already so much suffered.

"Your Majesty's petitioners, whilst they feel themselves called upon to complain of the measures of a party within the colony, would be wanting in truth and in justice to a very large portion of their fellow subjects, of a different origin from themselves, did they not bear witness to their loyalty, fidelity and moral rectitude, and to the desire which they, in common with your Majesty's petitioners, entertain for the maintenance of peace, order, and good government.

"Your Majesty's petitioners having laid before your Majesty the grievances of which they complain, humbly pray, that your Majesty may be graciously pleased to maintain the present constitution as by law established—that any representations made to your Majesty's government by Denis Benjamin Viger, Esq., be not considered as coming from the class of your Majesty's subjects to which your petitioners belong, but only from a party in the house of assembly of the province,—that your Majesty may be graciously pleased to disallow the act of the provincial legislature regulating the summoning of jurors, and to extend such further relief in the premises as your Majesty in your justice and wisdom may deem meet.

"And your petitioners will ever pray that your Majesty may long and happily reign over them."

The assembly unconstitutionally, as deemed by many, having incited by the 89th of the 92

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resolutions, the formation of committees of correspondence in Quebec, Montreal and other parts of the province, with a view to alterations in the constitution, pledged themselves, moreover, by the 91st resolution to make good the expenses of the formation of such, and of their action in that behalf, in the terms following—" that the fair and reasonable expenses of the said committees of correspondence in the performance of the duties entrusted to them by this house are a debt which it contracts towards them, and that the representatives of the people are bound in honor to use all constitutional means to reimburse such expenses to the said committees, or to such persons as may advance money to them for the purposes above mentioned." These, if defrayed at all, were consequently to come from the contingencies of the assembly. This it was urged would be a misapplication of the public monies advanced to the assembly, to defray its necessary ordinary expenses.

Among the anomalies of the session deserving of notice, is the reprimand by the speaker, of Mr. Hamel, a barrister residing in Quebec, and his Majesty's advocate general, for a *law opinion* in relation to the rights of certain voters at an election for the county of Stanstead, which, by desire of the governor, pursuant to a call from the returning officer he had given. It was resolved by the assembly—

" That André Rémy Hamel, Esqr., in having, as one of the officers of the crown, given an opinion to the governor

in chief, on the subject of the proceedings at the said election, to be transmitted to the said returning-officer, has been guilty of a breach of the rights and privileges of this house.

"And that the said André Rémy Hamel, Esq., be taken into the custody of the serjeant at arms, and be brought to the bar of this house, and admonished by the speaker."

Mr. Hamel being accordingly brought to the bar in custody, was reprimanded as follows:—

"Mr. Advocate General; pending an election last year, you were required to give your opinion on the matter of the proceedings which had been followed by the returning officer who presided at the election for the county of Stanstead. You were called to give these opinions in your character of a public officer; you ought to have given them with care, forethought and prudence; particularly reflecting that in a colony, where a military officer presides, who must be a stranger to our laws and our institutions, your being appealed to for the legal decision of the difficulty, was a circumstance of high importance. You examined the statute, you commented on it, you expressed your opinion that it was strange that a returning officer should have doubts on the point in question, and that he ought to erase the names of voters. It is not so much my business to shew whether your opinion was erroneous or not, as it is to admonish you, as I have been commanded by the house to do, for having given an opinion upon a matter, on which the house alone has the right to adjudge; and where, if the executive interfere it necessarily militates against this right, must influence the elections, and give the preference to one class of members over another. Your notions of constitutional law should have disposed you to answer the executive, that it ought not to infringe the privileges of this house; and not only not follow, but not take your opinion. This would have been the advice of a good and judicious public officer, capable of guiding the administration in a manner advantageous to the general welfare. Not having done this, the house considers that you are guilty of a breach of its privileges and has commanded me to admonish you. You are therefore accordingly admonished; you may now be discharged on paying costs."

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Messrs. Wright Chamberlain, and Marcus Child were the candidates for the representation of the county, and the former had been returned by Mr. Ritchie, the returning officer, as having the greatest number of *legal voters*, although Mr. Child had the majority of votes according to the poll-book, but many of them, it was said, were squatters and therefore not entitled to vote. The assembly, however, after investigation, unseated Mr. Chamberlain, and gave his seat to Mr. Child, who they considered was duly entitled to it and ought to have been returned accordingly by the returning officer.*

* The case submitted by Mr. Ritchie, through the civil secretary, for advice, was in these terms:

"The candidates, major Wright Chamberlain, and Marcus Child, Esq., at the commencement of the election, agreed that all persons should vote at the polls, provided they were of lawful age, and occupiers of land, not being proprietors, but what are generally termed squatters; from day to day such persons have been permitted to vote without being objected to by the respective candidates. I am bound by the 13th section of an Act, Geo. IV. cap. 33, to receive them, although by the 20th section of the same Act, no person shall be admitted to vote without he is a freeholder, &c. &c. The point on which I shall be at a stand in making my return is, whether according to my oath of office, I am bound to return the person who has the most votes, the majority being composed, as is evident from the poll book, of such voters as above mentioned, and I am apprehensive that the contest will be so close that a small majority must decide the event; or shall I return the person who appears to me to have the most legal votes, without any reference to numerical number? I would wish to be put in possession of his lordship's opinion with the least possible delay, in order that I may act in reference to it."

Mr. Hamel's opinion was as follows:—

"The law is positive as to the qualification of the persons who style themselves electors, for independent of being british subjects, either by conquest of this province, or by civil birth, the electors of members to the house of assembly as a component part of the legislature in this province, are of necessity persons having, and possessing, for their own use and, benefit, lands and tenements within the district or county or circle wherein they pretend to have a right

The opinion, in so far as the writer is able to judge, was in accordance with the law, and no doubt conscientious. The barristers of Quebec and Montreal, at meetings convoked for the purpose, passed several very proper resolutions on the occasion, protesting against the proceedings of the assembly, as an undue exercise of power, a violation of the professional immunities to which all advocates are entitled, and subversive of the independence of the bar "alike necessary for the protection of individual character and the defence of private and public rights."

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"Copy of a despatch from lord viscount Goderich, his Majesty's principal secretary of state for the Colonies, to lord Aylmer, governor in chief of Lower Canada, furnished by lord Goderich to the hon. D. B. Viger.—[Appendix Journal of Assembly, 1834.]

"Downing street, February 15, 1833.

"My lord—I have received your lordship's despatch No. 101, dated the 1st Decr. last, enclosing a series of resolutions passed by the house of assembly on the subject of the des-

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to vote, to the value of 43s. per annum, or upwards. * * * No consent either by the candidates or returning officer, can give a right of voting to any individual without the qualification required by law. * * * Therefore I am humbly of opinion that the said returning officer, in order to make a good and legal report, ought to set aside all those voters who have given their votes without alleging themselves to be proprietors, or by stating in the column which is given him in his poll book, that such an individual as voter is not proprietor, or not qualified.—I am of opinion also, that the very first questions which ought to be asked by a returning officer, in any election, are their names, additions, trade or profession, and qualification as voters, and neglecting that process, the returning-officer might be found hereafter in fault; and besides, I must state, that I am humbly of opinion, that it was the duty of the returning officer not to admit as voters, those persons who declared themselves unqualified."

"I have," &c.

(Signed) "ANDRE R. HAMEL, advocate gen."

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patch which I addressed to your lordship on the 25th January, 1832, respecting the case of Mr. Christie. These resolutions state that the house of assembly duly appreciate his Majesty's acknowledgment of the right of all his subjects to such assistance as he can afford for the redress of any grievance under which they labour, but that the house has seen, with regret, that his Majesty has been advised to act upon his gracious intention in this respect, in a case where the privileges of the assembly are concerned. The resolutions further state, that in expelling Mr. Christie, the house exercised a privilege frequently exercised by the house of commons, and by representative bodies in the colonies—that the house is the sole judge of the cases in which it ought to exercise this privilege—that the resolutions transmitted with your lordship's message, and purporting to be resolutions of freeholders and electors of Gaspé, are false, scandalous, and malicious—finally, that the resolutions passed in the county of Gaspé, and the letter from Mr. Christie by which they are accompanied, should be expunged from the journals of the assembly. With respect to that resolution, which expresses the regret of the house that, in a case where the privileges of the assembly are concerned, his Majesty has been advised to act upon his gracious intention to acknowledge the right of all his subjects to such assistance as he can afford for the redress of any grievances under which they labour, I have to assure your lordship that I shall always feel concerned in being informed that the assembly regrets any step which his Majesty may be advised to adopt respecting the affairs of Lower Canada. On the present occasion, however, I must observe, that unless it had been thought proper to recommend the total suppression of a petition from one of his subjects, his Majesty could scarcely have been advised to pursue any other course than to refer the alleged grievance to the body by which it was said to have been inflicted, in order that if unfounded, it might be declared to be so—if well founded, it might be redressed. In this single observation is comprised the whole of what I have to remark to your lordship on that part of the resolution which regards the propriety of having communicated to the assembly Mr. Christie's petition.

"But I will not conceal the general regret with which I

have received the resolutions of the assembly on this subject. When I addressed your lordship in my despatch No. 74, of the 26th January, 1832, I could not but suppose that there was some erroneous statement in the case of Mr. Christie as represented by himself. I could not until the assembly had considered his representations, and had supplied such information on them as it might deem meet to convey to his Majesty, assume that the house had pursued a course which certainly did, to my apprehension, appear opposed to principles solemnly recognized by the parliament in this country. Now, however, I learn that the assembly distinctly asserts its right to expel one of its members, on no other ground than that on which he was expelled by a former assembly. A former house having expelled Mr. Christie, the present house had in three successive sessions renewed the expulsion without the assignment of any new cause: and finally, has declared that this proceeding is the exercise of an unquestionable privilege belonging to the assembly. According to this doctrine Mr. Christie can never be admitted to the house, the ground of exclusion being always the same, there will be no reason why he should be admitted on the occasion of his next election more than on any previous occasion; and the assembly, if it act consistently, must continue to expel Mr. Christie as long as his constituents shall continue to return him. If to pursue such a course be one of the privileges of the house of assembly, the house is possessed of a privilege not merely to expel a member for any one session, but virtually to declare him disqualified for life, and to disfranchise, until one party or the other shall abandon the contest, the body of electors by which the same member is continually selected.

The resolutions state, that in expelling Mr. Christie, the house exercised a privilege frequently exercised by the house of commons. I am not aware how this opinion is reconciled with the principle established by the resolution on Mr. Wilkes' case, passed by the house of commons on the 3d May, 1782.

"The decision there recorded appears to be sufficiently explanatory of the doctrine adopted by the house of commons for its own guidance on the great constitutional ques-

tion which is now raised by the assembly of Lower Canada. But it is said that the occasion of the original expulsion makes a difference, and that if the offence be flagrant, then a repeated expulsion on the same ground is justifiable. I cannot admit that this proposition is consistent with the doctrine to be drawn from Wilkes' case. The principle established in that case appears to me to be plainly and beyond all controversy this, that the house of commons is the judge whether an offence committed by a member is sufficient ground of expelling him once, but that the electors alone are the judges whether the same offence is a sufficient ground to disqualify him from sitting after the occurrence of an opportunity for a new election. When the house of commons acknowledged the existence of error in its previous proceedings on Mr. Wilkes' elections, and by the precedent established in its resolutions on that subject, disclaimed for the future, the power of rendering an individual permanently incapable of sitting in parliament, no condition respecting the original offence was implied. Had the power of repeated expulsion not been totally disclaimed, but only been implied to be conditional upon the gravity of the first offence, it would in fact have received no effectual limit at all. For under the most violent proceedings against any individual member, it could not be denied that the house signified by those very acts its own opinion that the offence justified the visitation. The truth is, that the house of commons has, by its own decision, excluded all questions respecting the occasion of the first expulsion. In times of political excitements, those who are subject to its influence will probably always believe the particular occasion in which they are interested to be one of special importance, and peculiar character, and it is not to the judgment of parties in such moments of agitation, that the rights of electors have been left in this country. If the original ground of expulsion be really flagrant, it is to be hoped that the good sense of the electors themselves, whether in Great Britain or in Canada, will afford the best security that the expelled member will not again find a seat among the representatives of the people.

"In the preceding observations I would by no means be understood as questioning the constitutional right of the